Allen Owen, Mayor Eunice Reiter, Mayor Pro Tem Jerry Wyatt, Councilmember Barbara Gibson, Councilmember



Buddy Jimerson, Councilmember Brett Kolaja, Councilmember Cynthia Gary, Councilmember Caroline Kelley, City Attorney Frank Simpson, City Manager Patrice Fogarty, City Secretary

### CITY COUNCIL MEETING AGENDA

Notice is hereby given of a meeting of the City Council of Missouri City to be held on **Tuesday**, **January 20**, **2009**, at **7:00 p.m.** at: **City Hall, Council Chambers**, **2**<sup>nd</sup> **Floor**, 1522 Texas Parkway, Missouri City, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

- 1. ROLL CALL
- 2. PLEDGE OF ALLEGIANCE The *Pledge of Allegiance* will be led by the Cub Scout Pack #820.
- 3. PRESENTATIONS AND RECOGNITIONS

There are no Presentations and Recognitions at this time.

- 4. CONSENT AGENDA All consent agenda items listed are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public review.
  - (a) Consider approving the **minutes** of the **regular and special** City Council meeting of **January 5**, **2009**.
  - (b) Consider authorizing the **purchase** of **computer equipment** through the State of Texas Department of Information Resources cooperative purchasing contract.
  - (c) Consider authorizing the City Manager to negotiate and execute an agreement for **Medical Director Services** with **Dr. Benjamin Oei** for emergency services.
- **5. APPOINTMENTS** There are no Appointments at this time.
- 6. AUTHORIZATIONS BY COUNCIL
  - (a) Consider authorizing the City Manager to execute a **professional services agreement** for the Willow Waterhole Master Drainage Plan Update.
  - (b) Consider authorizing the City Manager to execute a **professional services agreement** for **bridge structural analysis.**
  - (c) Consider authorizing the Mayor to execute the **acceptance of dedication of right-of-way** for **Cravens Road cul-de-sac** from BC Business Park, L.P., upon completion of satisfactory due diligence and upon dedication by BC Business Park, L.P.
- 7. **PUBLIC COMMENTS** An opportunity for the public to address Council on items/concerns not on this agenda.
- **8. PUBLIC HEARINGS –** There are no Public Hearings at this time.

#### 9. PUBLIC HEARINGS AND CONSIDERATION OF ZONING ORDINANCES

- Public hearing to receive comments for or against a request by **Cesar Corrales of Ted Trout Architect and Associates, Ltd.,** on behalf of the BW8 200, LP, to rezone an approximately 7.712-acre tract of land from MF-1, Multifamily Residential District to PD, Planned Development District to allow for deviations to the City's Zoning Ordinance to locate an **age-restricted, senior living development**; providing a penalty; providing for severability; and to **consider the ordinance on the second and final reading**. The subject site is located southeast of the intersection of S. Gessner Road, and Beltway 8 and west of South Main Gardens.
- (b) Public hearing to receive comments for or against a request by Llarance Turner of Kelly R. Kaluza & Associates, Inc., on behalf of II C.B., L.P., to rezone an approximately 54.307-acre tract of land from R-2, Single-Family Residential District to LC-3, Retail District; providing a penalty; providing for severability; and to consider the ordinance on the second and final reading. The subject site is located at the southeast intersection of US 90A (South Main Street) and South Cravens Road.

### 10. CONSIDERATION OF ORDINANCES

(a) Consider an ordinance of the City of Missouri City, Texas, amending Chapter 2, Administration, of the Code of Ordinances of the City of Missouri City, Texas; removing the designation of **election precincts and polling places** from the Code of Ordinances and providing for such designation by separate ordinance; providing for repeal; and providing for severability; and to **consider on the second and final reading.** 

#### 11. CONSIDERATION OF RESOLUTIONS

- (a) Consider a resolution of the City Council of the City of Missouri City, Texas, authorizing the Mayor to execute and the City Secretary to attest the First Amendment to the Economic Development Agreement by and between the City of Missouri City, Texas and Ben E. Keith Company pertaining to 82.204 acres of land located in the City of Missouri City, Texas.
- (b) Consider a resolution of the City Council of the City of Missouri City, Texas, adopting the **meeting room use policy**; and repealing all ordinances, resolutions or policies in conflict herewith.
- **12. RECEIVING OF REPORTS** There are no reports on this agenda.

#### 13. CLOSED EXECUTIVE SESSION

The City Council may go into Executive Session regarding any item posted on the Agenda as authorized by Chapter 551 of the Texas Government Code.

- **14. CONVENE INTO OPEN SESSION** *Take action, if necessary.*
- 15. ADJOURN

In compliance with the Americans with Disabilities Act, the City of Missouri City will provide for reasonable accommodations for persons attending City Council meetings. To better serve you requests should be received 24 hours prior to the meetings. Please contact Patrice Fogarty, City Secretary, at 281.403.8685.

### CERTIFICATION

certify that a copy of the January 20, 2009, agenda of items to be considered by the Missouri City City Council was posted on the City Hall bulletin board on January 16, 2009 at 12:00 p.m.
Maria Gonzalez, Deputy City Secretary
certify that the attached notice and agenda of items for consideration by the City Council was removed by me from he City Hall bulletin board on the day of, 2009.



- 1. CALL TO ORDER
- 2. PLEDGE OF ALLEGIANCE
  The Pledge of Allegiance will be led by Cub Scout Pack #820.
- 3. PRESENTATIONS AND RECOGNITIONS
  There are no Presentations and Recognitions at this time.



### 4. CONSENT AGENDA

(a) Consider approving the **minutes** of the **regular and special** City Council meeting of **January 5, 2009.** 

Background information attached as follows:

Special meeting minutes of January 5, 2009

Regular meeting minutes of January 5, 2009

Allen Owen, Mayor Eunice Reiter, Mayor Pro Tem Jerry Wyatt, Councilmember Barbara Gibson, Councilmember



Buddy Jimerson, Councilmember Brett Kolaja, Councilmember Cynthia Gary, Councilmember Caroline Kelley, City Attorney Frank Simpson, City Manager Patrice Fogarty, City Secretary

### CITY COUNCIL SPECIAL MEETING MINUTES

City Council of the City of Missouri City, Texas, met in special session **Monday, January 5, 2009,** at **5:45 p.m.** at City Hall, Second Floor (Behind Council Chambers), 1522 Texas Parkway, Missouri City, Texas, to consider the following:

#### 1. CALL TO ORDER

Mayor Owen called the meeting to order at 6:05 p.m.

Those also present: Mayor Pro Tem Reiter, Councilmembers Wyatt, Jimerson, Kolaja, Gary, and Gibson; City Manager Simpson, City Attorney Kelley and City Secretary Fogarty. Assistant City Manager Atkinson, Assistant City Attorney Smith, Director of Finance Vela, Director of Public Works/City Engineer Elmer, Director of Planning Green, and Director of Communications Brescian. Also present: QVGC Pro Shop Manager David Jake, Head Golf Professional Tyson Stittleburg, and Chris Casey.

### 2. DISCUSSION/POSSIBLE ACTION

(a) Presentation from Chris Casey, Pierce Goodwin Alexander & Linville, of the concept plan for City Hall Phase I renovations.

Chris Casey presented an overview of the concept plan for City Hall Phase I renovations. Mr. Casey stated that the first phase of construction would move the Information Technology Department from City Hall to the Municipal Court/EOC Complex. Assistant City Manager Atkinson added that the contractor is currently working on the air conditioning problem in that building. Mr. Casey has anticipated that the drawings will be delivered to the City at the beginning of February and thus begin negotiation with contractors to start the reconstruction of shell spaces. The use of the new courthouse room was discussed as well. Specifically, Mayor Owen asked if the council meetings would be held at the new courthouse building while Council Chambers is being constructed. City Manager Simpson stated that currently the new courthouse does not have any filming equipment, but it does contain speakers. City Manager Simpson added that the construction phase of the council chambers would last between six to twelve months. City Secretary Fogarty stated that the council meeting can be held anywhere besides City Hall as long as it is in the City, and citizens should be notified of the change in location. Chris Casey will be back at the first meeting of February when Council will award the contract for the new Emergency Operations Center.

(b) Consider and discuss the schedule of fees pertaining to the Quail Valley Golf Course and related facilities.

City Manager Simpson presented an overview of the correct fees pertaining to the Golf Course. Mayor Owen clarified that the annual fee is an option and that clients still have the option to play per play. The annual fee just gives the City a guaranteed cash flow thus giving the ability to better budget. City Manager Simpson added that the fees are one small fee for the overall of the golf course and suggested a planning meeting. Mayor Owen stated that the old jogging course is being used, and he asked that the restrooms and water fountains that were once locked be opened and maintained. Tyson Stittleburg stated the proposal of a resident daily fee in which a Quail Valley residency card will be issued. Due to the costs of these cards, Stittleburg proposes to add a \$1 fee to the current rate. City Manager Simpson added that in the future, there will be a proposal for adding fees for golf lessons.

(c) Consider and discuss the Charter Review Commission's Final Report and consider authorizing any actions related thereto.

Mayor Owen stated that the City should opt to not conduct a Charter amendment election. Mayor Owen and Councilmembers Jimerson and Wyatt did not want to have an election for three-year terms. Both Councilmembers Gary and Reiter would like to consider three-year terms. Mayor and Council agreed that the three-year terms are something to consider. City Secretary Fogarty inquired if they do not want a special election for any charter changes. A consensus was made among Mayor and Council, and it was agreed there will be no election in May.

3.	The meeting adjourned at 6:40 p.m.
 Patric	e Fogarty, City Secretary

Allen Owen, Mayor Eunice Reiter, Mayor Pro Tem Jerry Wyatt, Councilmember Barbara Gibson, Councilmember



Buddy Jimerson, Councilmember Brett Kolaja, Councilmember Cynthia Gary, Councilmember Caroline Kelley, City Attorney Frank Simpson, City Manager Patrice Fogarty, City Secretary

### CITY COUNCIL MEETING MINUTES

City Council of the City of Missouri City, Texas, met in regular session **Monday, January 5, 2009**, at the City Hall Council Chambers, Second Floor, 1522 Texas Parkway, Missouri City, Texas, at **7:00 p.m.** to consider the following:

### 1. ROLL CALL

Mayor Owen called the meeting to order at 7:12 p.m.

Those also present: Mayor Pro Tem Reiter, Councilmembers Wyatt, Jimerson, Gary, Gibson and Kolaja; City Manager Simpson, City Attorney Kelley, and City Secretary Fogarty.

### 2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Missouri City Police Department Honor Guard.

#### 3. PRESENTATIONS AND RECOGNITIONS

Mayor Owen recognized **Police Chief Echols** for his 28 years and 9 months of service to the City of Missouri City and on his **retirement**; and presented the **Clean Restaurant Awards** to local establishments.

### 4. CONSENT AGENDA

- (a) Consider approving the minutes of the regular and special City Council meeting of December 15, 2008.
- (b) Consider authorizing the purchase of a **storm drain flushing machine**.
- (c) Consider authorizing the City Manager to execute a change order to the **Professional Services**Agreement with Jeffrey D. Blume, Ltd.

Councilmember Gary moved to approve the Consent Agenda pursuant to recommendations by Staff. Councilmember Gibson seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

Noes: None

### 5. APPOINTMENTS

There were no Appointments at this time.

#### 6. AUTHORIZATIONS BY COUNCIL

(a) Consider authorizing the **termination** of the **contract with Hawes Hill Calderon, LLP** for services related to the creation of Reinvestment Zones, Public Improvement Districts and Redevelopment Authority.

Councilmember Wyatt moved to authorize the **termination** of the **contract with Hawes Hill Calderon, LLP** for services related to the creation of Reinvestment Zones, Public Improvement Districts and Redevelopment Authority. Councilmember Jimerson seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

(b) Consider authorizing applying for a **grant** through **Homeland Security – UASI** for approximately **\$800,000** to **upgrade police radio consoles to digital status** to facilitate technological growth in the coming years.

Councilmember Gibson moved to authorize the Missouri City Police Department to apply for a **grant** through **Homeland Security – UASI** for approximately \$800,000 to **upgrade police radio consoles to digital status.** Councilmember Gary seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

Noes: None

(c) Authorize the Mayor to negotiate and enter into an agreement with **Texas Government** Solutions/John Greytok for legislative consulting services.

**Rodrigo Carreon,** 1122 Ave. C, Fresno, TX, spoke in support of the City's agreement with Texas Government Solutions for legislative consulting services.

Councilmember Jimerson moved to authorize the Mayor to negotiate and enter into an agreement with **Texas Government Solutions/John Greytok** for **legislative consulting services.** Councilmember Kolaja seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

Noes: None

### 7. PUBLIC COMMENTS

There were no Public Comments at this time.

#### 8. PUBLIC HEARINGS

There were no Public Hearings at this time.

### 9. PUBLIC HEARINGS AND CONSIDERATION OF ZONING ORDINANCES

Public hearing to receive comments for or against a request by CS Carroll on behalf of **Opus West Corporation**, **LLC**, to amend Ordinance O-07-40 pertaining to PD, Planned Development District No. 66 to allow for deviations to the City's Zoning Ordinance for the development of a **Spring Creek Barbeque Restaurant**; providing a penalty; providing for severability; and to **consider the ordinance on the second and final reading**. The subject site is located northwest of the intersection of State Highway 6 and Colonial Lakes Drive, south of the Kids R Kids Learning Center and west of the Goodwill Store and Oyster Creek Plantation Subdivision.

The public hearing opened at 7:50 p.m. With no comments, the public hearing closed at 7:51 p.m.

Councilmember Gibson moved to approve the request by CS Carroll on behalf of **Opus West Corporation**, **LLC**, to amend Ordinance O-07-40 pertaining to PD, Planned Development District No. 66 to allow for deviations to the City's Zoning Ordinance for the development of a **Spring Creek Barbeque Restaurant on the second and final reading**. Councilmember Gary seconded. **MOTION PASSED**.

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

(b) Public hearing to receive comments for or against a request by **Cesar Corrales of Ted Trout Architect and Associates, Ltd.**, on behalf of the BW8 200, LP, to rezone an approximately 7.712-acre tract of land from MF-1, Multifamily Residential District to PD, Planned Development District to allow for deviations to the City's Zoning Ordinance to locate an **age-restricted, senior living development**; providing a penalty; providing for severability; and to **consider the ordinance on the first of two readings**. The subject site is located southeast of the intersection of S. Gessner Road. and Beltway 8 and west of South Main Gardens.

The public hearing opened at 7:51 p.m. Planner Ford stated the applicant proposes to develop Hometowne at Missouri City, which will be a 7.71-acre tract development that is an age-restricted, senior living facility located Northeast of Beltway 8 at the City limits.

Planner Ford indicated Hometowne at Missouri City is planned to consist 108 dwelling units within five multifamily residential buildings and a community clubhouse. Rental rates for a one bedroom (approximately 650 – 750 sq ft) are between \$280/mth to 650/mth and a two bedroom (approximately 950 sq ft) are between \$350/mth to \$745/mth. The associated amenities will be catered meals, a library, internet access, screening room, trash pickup, individual washer/dryer connection and an on-site laundry facility for the residents. The applicant is requesting deviations that would allow for an increase in the number of dwelling units per net platted acre, for an increase in the number of dwelling units per building, for a reduction in the size of the greenbelt, for the installation of Hardie-Plank on patio exterior walls/balconies, for the use of composition shingle roofing, and for a reduction in the minimum number of parking spaces provided.

Mayor Owen questioned the number of garages in the facility. Planner Ford stated there would be 64 garages to accommodate the 108 units. City Manager Simpson indicated that currently, there are no deviations to the garages.

**Kenneth W. Fambro,** Vice President of Integrated Real Estate Group, indicated Hardie-Plank is being requested for garage structures. Mayor Owen then stated that the residents who utilize the garages should utilize them for the sole purpose of parking their vehicle and not as storage space. Mayor Owen recommended assigned parking or the enforcement of parking garages for parking vehicles should be implement. Mr. Fambro stated they incorporate the purpose of parking garages in the lease agreement.

Councilmember Wyatt indicated the developer should reconsider parking garages because most residents of this community will not own vehicles.

Mayor Pro Tem Reiter questioned the wind resistance rating for the proposed facility. Mr. Fambro stated that although he is unsure of the wind resistance rating, the facilities does adhere to the requirements in the hurricane ordinance for wind resistance.

Mr. Fambro then indicated that the average age of residents would be approximately 73 years of age and that roughly half of the residential population would be single women above the age of 75 years. As an additional amenity to service the community, bus service will be provided to the residents. With no further comments, the public hearing closed at 8:10 p.m.

Mayor Pro Tem Reiter moved to approve the request by **Cesar Corrales of Ted Trout Architect and Associates, Ltd.,** on behalf of the BW8 200, LP, to rezone an approximately 7.712-acre tract of land from MF-1, Multifamily Residential District to PD, Planned Development District to allow for deviations to the City's Zoning Ordinance to locate an **age-restricted, senior living development on the first of two readings**. Councilmember Gibson seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

(c) Public hearing to receive comments for or against a request by Llarance Turner of Kelly R. Kaluza & Associates, Inc., on behalf of II C.B., L.P., to rezone an approximately 54.307-acre tract of land from R-2, Single-Family Residential District to LC-3, Retail District; providing a penalty; providing for severability; and to consider the ordinance on the first of two readings. The subject site is located at the southeast intersection of US 90A (South Main Street) and South Cravens Road.

The public hearing opened at 8:10 p.m. Planner Ford presented. The applicant, **Llarence Turner**, Kelly Kaluza & Associates, indicated the front acres of this tract of land is currently zoned as an LC-3, Retail District and stated they would like to rezone the remaining 54.307 acres to LC-3, Retail District, in order for it to be one zoning designation. With no further comments, the public hearing closed at 8:13 p.m.

Mayor Pro Tem Reiter moved to approve the request by Llarance Turner, Kelly R. Kaluza & Associates, Inc., on behalf of II C.B., L.P., to rezone an approximately 54.307-acre tract of land from R-2, Single-Family Residential District to LC-3, Retail District on the first of two readings. Councilmember Jimerson seconded. MOTION PASSED.

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

Noes: None

#### 10. CONSIDERATION OF ORDINANCES

(a) Consider an ordinance of the City of Missouri City, Texas, finding and determining that public convenience and necessity no longer require the continued existence in the present location of Knight Road and its right-of-way from State Highway 6 to Fort Bend Parkway; providing for the vacation, closure and abandonment of such road and right-of-way conditioned on the construction and dedication of a new portion of Knight Road and a portion of the access roads for the Fort Bend Parkway, and the installation of traffic signal modifications at the intersections of the access roads and State Highway 6; directing the City Manager to execute and deliver a certificate of compliance to the abutting property owner; containing other provisions relating to the subject; and to consider the ordinance on the second and final reading.

Councilmember Kolaja determined that public convenience and necessity no longer require the continued existence in the present location of **Knight Road and its right-of-way from State Highway 6 to Fort Bend Parkway**; providing for the vacation, **closure and abandonment** of such road and right-of-way conditioned on the construction and dedication of a new portion of Knight Road and a portion of the access roads for the Fort Bend Parkway, and the installation of traffic signal modifications at the intersections of the access roads and State Highway 6; directing the City Manager to execute and deliver a certificate of compliance to the abutting property owner; containing other provisions relating to the subject **on the second and final reading.** Councilmember Gary seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

Noes: None

(b) Consider an ordinance of the City of Missouri City, Texas, amending Chapter 2, Administration, of the Code of Ordinances of the City of Missouri City, Texas; removing the designation of **election precincts and polling places** from the Code of Ordinances and providing for such designation by separate ordinance; providing for repeal; and providing for severability; and to **consider on the first of two readings.** 

Councilmember Wyatt moved to amend Chapter 2, Administration, of the Code of Ordinances of the City of Missouri City, Texas; removing the designation of **election precincts and polling places** from the Code of Ordinances **on the first of two readings.** Councilmember Jimerson seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

#### 11. CONSIDERATION OF RESOLUTIONS

(a) Consider a resolution of the City Council of the City of Missouri City, Texas, approving and ratifying submission of the **grant application** for the **Crime Victim Liaison Project** to the Criminal Justice Division of the Office of the Governor and containing other provisions related thereto.

Councilmember Gibson moved to approve the submission of the **grant application** for the **Crime Victim Liaison Project** to the Criminal Justice Division of the Office of the Governor and containing other provisions related thereto.

Councilmember Kolaja seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

Noes: None

(b) Consider a resolution of the City Council of the City of Missouri City, Texas, amending the **schedule of fees** pertaining to the **golf course and related facilities**; and repealing Resolution R-08-37 adopted on December 15, 2008.

City Attorney Kelley stated there would be two changes to the current resolution presented to City Council tonight. The first is to authorize a \$1.00 fee for the issuance of resident ID card. In addition, the second change would be to provide for a 5-percent discount from the unlimited green fees for residents and non-residents, individuals and families, under the annual pass provision. That 5-percent provision would be applicable to any person or family who made payment in full at the time of application.

Councilmember Wyatt moved to approve the schedule of fees pertaining to the golf course and related facilities pursuant to recommendations by Staff. Councilmember Gary seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

Noes: None

#### 12. RECEIVING OF REPORTS

There were no reports on this agenda.

### 13. CLOSED EXECUTIVE SESSION

At 8:17 p.m., Council convened in closed executive session pursuant to chapter 551 of the Texas Government Code, for one or more of the following reasons:

**Texas Government Code, Section 551.074** – deliberation on the appointment, employment, evaluation and/or duties of City Manager and Chief of Police.

#### 14. RECONVENE INTO OPEN SESSION

Councilmember Kolaja moved to extend the City Manager's contract for another three years at the current salary. Councilmember Gary seconded. **MOTION PASSED.** 

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,

Jimerson, Gary, Gibson and Kolaja

Noes: None

#### 15. ADJOURN

The meeting adjourned at 9:41 p.m.

Patrice Fogarty, City Secretary



### 4. CONSENT AGENDA

(b) Consider authorizing the **purchase** of **computer equipment** through the State of Texas Department of Information Resources cooperative purchasing contract.

Background information attached as follows:

Cover Memo



### **Council Agenda Item Cover Memo** January 20, 2009

To: Mayor and City Council

Agenda Item: Consider authorizing the purchase of computer equipment through

the State of Texas Department of Information Resources cooperative

purchasing contract.

Submitted by: Charles Oberrender, CPPB, Purchasing Manager

Kendall Litchfield, Information Technology Director

### **SYNOPSIS**

In the FY 2009 budget, funds were approved to purchase various personal computers, software, and related hardware as part of the computer equipment replacement program. These items are usually available through the State of Texas Department of Information Resources ("DIR") cooperative purchasing program. These items are purchased incrementally during the fiscal year as the replacements are scheduled. Staff seeks authorization to purchase 60 replacement laptops and desktop computers through the DIR program.

### **BACKGROUND**

The DIR has been a primary source of computer equipment for the City over the past several years as their contracts have huge volume and command a substantial discount that may not be available on the small quantities the City would purchase on its own. Staff budgeted \$1,625 each for the desktops, and \$2,135 for laptops in FY09. The DIR has a contract with M & T Consulting. LLC (#DIR-SDD-223) for desktop and laptop computers. Attached is a list of the computers that would be replaced at this time and the price quoted to the City for each by M & T Consulting, LLC. The 60 replacement computers total \$44,036.

	FIS	CAL ANALYSIS		
Funding Source	Budgeted	Available	Purchase	
60610057122023	\$97,500	\$97,500	\$44,036	
	STAFF'S	RECOMMENDATION		

Authorize the purchase of computers from M & T Consulting, LLC through the DIR cooperative purchasing program for an amount not to exceed \$44,036.00.

**Frank Simpson** City Manager

### List of 60 Computers Budgeted in FY09

### Replacement Program

Qty	Control #	PC Name	PC Type	Amount
1	38	FIN_REVENUE	PC WORKSTATION	\$706
2	39	FIN_DIRECTOR2	PC WORKSTATION	\$706
3	40	FIN_ACCOUNT6	PC WORKSTATION	\$706
4	99	FIN_CHKSCANNER	PC WORKSTATION	\$706
5	247	FIN_account2	PC WORKSTATION	\$706
6	248	FIN_Account4	PC WORKSTATION	\$706
7	249	FIN_PayrollB	PC WORKSTATION	\$706
8	250	FIN_Accouting	PC WORKSTATION	\$706
9	251	FIN_Account3	PC WORKSTATION	\$706
10	252	FIN_AccoutSuper	PC WORKSTATION	\$706
11	253	FIN_Payable	PC WORKSTATION	\$706
12	61	PW_OPERATIONAL	PC WORKSTATION	\$706
13	63	PW_CAPITAL	PC WORKSTATION	\$706
14	322	PW_Inspector2	PC WORKSTATION	\$706
15	323	PW_Inspector3	PC WORKSTATION	\$706
16	324	PW_Inspector	PC WORKSTATION	\$706
17	65	PK_DIRECTOR	PC Laptop	\$1,509
18	111	PK_BUILDING2	PC WORKSTATION	\$706
19	340	PK_ParkSuper	PC WORKSTATION	\$706
20	341	PK_Crew	PC WORKSTATION	\$706
21	66	PK_ATTENDANT3	PC WORKSTATION	\$706
22	343	PK_RecSpecial	PC WORKSTATION	\$706
23	344	PK_RecSpecial2	PC WORKSTATION	\$706
24	345	PK_Attendant	PC WORKSTATION	\$706
25	346	PK_Assist	PC WORKSTATION	\$706
26	347	PK_RecAssisst	PC WORKSTATION	\$706
27	349	PK_RecSuper	PC WORKSTATION	\$706
28	351	Pl_Director	PC Laptop	\$1,579
29	352	Pl_Assistant	PC WORKSTATION	\$706
30	353	Pl_Sec	PC WORKSTATION	\$706
31	354	Pl_Planner	PC WORKSTATION	\$706
32	68	PL_Inspect	PC WORKSTATION	\$706
33	360	PI_Psr	PC WORKSTATION	\$706
34	361	PI_Psr2	PC WORKSTATION	\$706
35	362	PI_Psr4	PC WORKSTATION	\$706
36	363	Pl_Insepctor2	PC WORKSTATION	\$706
37	364	PI_Insepctor3	PC WORKSTATION	\$706
38	365	PI_Insepctor4	PC WORKSTATION	\$706
39	366	PI_Insepctor5	PC WORKSTATION	\$706
40	367	Pl_InspectIntern	PC WORKSTATION	\$706

41	368	PL_CBO	PC WORKSTATION	\$706
42	369	PL_DEPBLDGOFF	PC WORKSTATION	\$706
43	370	PI_CEOfficer	PC WORKSTATION	\$706
44	371	PI_CEOfficer2	PC WORKSTATION	\$706
45	372	PI_CEOfficer3	PC WORKSTATION	\$706
46	373	PI_HealthInspect	PC WORKSTATION	\$706
47	100	CDBG_INSPECT	PC WORKSTATION	\$706
48	73	PW_Mechanic3	PC WORKSTATION	\$706
49	376	PW_Mechanic	PC WORKSTATION	\$706
50	377	PW_GarageSuperintend	PC WORKSTATION	\$706
51	379	PD_FIELDHOST	PC WORKSTATION	\$706
52	380	PD_CAD5	PC WORKSTATION	\$706
53	381	AT	PC WORKSTATION	\$706
54	382	HR	PC WORKSTATION	\$706
55	383	lt_Helpdesk1	PC WORKSTATION	\$706
56	384	It_Helpdesk	PC WORKSTATION	\$706
57	385	IT_PCLAN	PC WORKSTATION	\$706
58	388	PUBDHCP	PC WORKSTATION	\$706
59	400	Pk_Building1	PC WORKSTATION	\$706
60	401	PK_Building3	PC WORKSTATION	\$706

\$44,036



### 4. CONSENT AGENDA

(c) Consider authorizing the City Manager to negotiate and execute an agreement for **Medical Director Services** with **Dr. Benjamin Oei** for emergency services.

Background information attached as follows:

Cover Memo



### Council Agenda Item Cover Memo January 20, 2009

To: Mayor and City Council

Agenda Item: 4c Consider authorizing the City Manager to negotiate and execute an agreement for

medical director services with Dr. Benjamin Oei for emergency services.

**Submitted by:** Charles Oberrender, CPPB, Purchasing Manager

Russell Sander, Fire Chief

#### **SYNOPSIS**

The current agreement for medical director services expires January 31, 2009. Staff desires to enter into a new agreement with Dr. Benjamin Oei.

#### **BACKGROUND**

Currently, Missouri City Fire & Rescue Services has an agreement with Dr. Benjamin Oei for medical director services, which expires January 31, 2009. Staff desires to negotiate and enter into a new contract for these services with Dr. Oei. The desired agreement would be for a one-year term that would automatically renew on the anniversary date each year for an additional four consecutive one-year terms for a total of five years. There is no plan during negotiations to change the terms or fee from the previous agreement. The Fire Department is pleased with Dr. Oei's services under this contract and wishes to continue to acquire his services.

The Texas Department of State Health Services requires all first responder organizations to have a medical director in order to provide medical care. This contract meets these requirements and also allows the fire department to continue to provide advance life support first responder services.

The proposed agreement offers to pay Dr. Benjamin Oei \$24,000 per twelve month term for medical director services. This reflects no change in the annual payment to Dr. Oei from the current contract. One-half of the cost of the services for FY09 has been paid under the existing contract, so only \$12,000 will need to be expended during the remainder of FY09.

		FISCAL ANALYSIS	
Funding Source	FY09 Budget	FY09 Funds Available	FY09 Proposed Cost
10140345433017	\$66,900	\$31,690	\$12,000

### STAFF'S RECOMMENDATION

Authorize the City Manager to negotiate and execute an agreement for medical director services with Dr. Benjamin Oei for an annual fee not to exceed \$24,000.

Frank Simpson City Manager



### 5. APPOINTMENTS

There are no Appointments on this agenda.



### 6. AUTHORIZATIONS BY COUNCIL

(a) Consider authorizing the City Manager to execute a **professional services agreement** for the **Willow Waterhole Master Drainage Plan Update**.

Background information attached as follows:

Cover Memo



## Council Agenda Item Cover Memo "Staff Recommendation" January 20, 2009

To: Mayor and City Council

Agenda Item: 6a Consider authorizing the City Manager to execute a professional service agreement for

Willow Waterhole Master Drainage Plan Update

Submitted by: Charles Oberrender, CPPB, Purchasing Manager

Jing Chen, PE, CFM, Asst. City Engineer, Public Works Dept

### **SYNOPSIS**

Staff seeks Council approval to engage the engineering consulting firm Kimley Horn and Associates, Inc. to perform the engineering updates to Willow Waterhole Master Drainage Plan Update.

#### **BACKGROUND**

The Willow Waterhole is the northernmost watershed within the city limits of Missouri City. Its existing watershed drainage study was completed in April 1985 by Henry Steinkamp Jr. Inc. However, over the years, changes in drainage patterns created by various developments within the watershed necessitate an update to the watershed master drainage plan (MDP) to minimize flooding hazards. Kimley Horn and Associates, Inc. is currently performing site development and drainage design services for the Ben E. Keith site located in a portion of the watershed (near S. Gessner and Cravens Road). To facilitate a consistent overall watershed master drainage plan design, staff discussed with Kimley Horn the updating the existing MDP for the entire Willow Waterhole watershed.

The contract cost for services is \$84,000.00 plus reimbursable expenses. The total expenditures is estimated to not exceed \$92,000.00

### FISCAL ANALYSIS

FY09 Funds	Funding Source	Account Number	Project Number	FY09 Funds
Budgeted				Actual Cost
\$55,000.00	Bond/METRO	403-0000-648-7001	DR9802	\$44,000
\$121,558.00	Bond/METRO	403-0000-648-7001	DR9805*	\$48,000

<sup>\*</sup>This project number was changed from the original DR9901 to DR9805 because the anticipated funding needed for the Mustang Bayou watershed is less than expected, therefore we propose to shift the extra funding to the Willow Waterhole watershed.

### STAFF'S RECOMMENDATION

Authorize the City Manager to execute a professional services agreement with **Kimley Horn and Associates**, **Inc.** for an amount not to exceed \$92,000.00.

**Bill Atkinson** 

**Assistant City Manager** 



### 6. AUTHORIZATIONS BY COUNCIL

(b) Consider authorizing the City Manager to execute a **professional services agreement** for **bridge structural analysis.** 

Background information attached as follows:

Cover Memo



### Council Agenda Item Cover Memo January 20, 2009

To: Mayor and City Council

Agenda Item: 6b Consider authorizing the City Manager to execute a professional service

agreement for bridge structural analysis.

**Submitted by:** Charles Oberrender, CPPB, Purchasing Manager

Jing Chen, PE, CFM, Asst. City Engineer

#### **SYNOPSIS**

Staff seeks Council approval to engage the engineering consulting firm Costello, Inc. to perform bridge structural analysis for the City.

#### **BACKGROUND**

Due to the recent bridge failure at Lake Olympia, the City Engineer initiated a more in-depth bridge analysis for several off-system bridges along Oyster Creek and Stafford Run, including crossings at Cartwright Rd, Glenn Lakes, Hampton Drive, El Dorado Blvd. and Lexington Blvd.

The Purchasing Office prepared RSQ #016-09 for Bridge Structural and Hydraulic Analysis engineering services. On August 18, 2008, Missouri City opened responses. The twelve firms responding were:

AIA Engineers, LTD Huitt Zollars, Inc.

Kimley Horn and Associates, Inc. LJA Engineering & Surveying, Inc.

HDR Engineering, Inc.

PBS&J

H2B, Inc.

CP &Y, Inc.

Zarinkelk Engineering Services, Inc. Edminster, Hinshaw, Russ and Associates, Inc.

Michael Baker Jr., Inc. Costello, Inc.

The responses were reviewed by staff. The services that were requested to be provided include but are not limited to structural and hydraulic analysis, report writing, and construction cost estimates.

Staff conducted an objective evaluation based on the following criteria:

- Qualifications of the design team on performing respective engineering analysis services
- Depth of experience of the firm in the field
- The firm's past experience in performing similar assignments and the overall reputation of the firm
- Project approach & past demonstration of innovation concepts
- Previous experience on municipal projects

As a result of the evaluation, it was determined that Costello, Inc presented the strongest overall experience in conducting the reference project. Staff negotiated an agreement and scope of work for a cost not to exceed \$120,630.00.

### **FISCAL ANALYSIS**

FY09 Funds	Funding Source	Account Number	Project Number	FY09 Funds
Budgeted				Actual Cost
\$121,558.00	Bond/METRO	403-0000-648-7001	DR9901	\$120,630

### STAFF'S RECOMMENDATION

Authorize the City Manager to execute a professional services agreement with Costello Inc. for an amount not to exceed \$120,630.00.

**Bill Atkinson** 

**Assistant City Manager** 



### 6. AUTHORIZATIONS BY COUNCIL

(c) Consider authorizing the Mayor to execute the **acceptance of dedication of right-of-way** for **Cravens Road cul-de-sac** from BC Business Park, L.P., upon completion of satisfactory due diligence and upon dedication by BC Business Park, L.P.

Background information attached as follows:

Cover Memo



### Council Agenda Item Cover Memo January 20, 2009

To: Mayor and City Council

**Agenda Item: 6c** Acceptance of Cravens Road cul-de-sac property

Submitted by: Gary W. Smith, First Assistant City Attorney

### **SYNOPSIS**

This item authorizes the acceptance of the conveyance of property needed to construct a cul-de-sac on Cravens Road at the Union Pacific Railroad tracks adjacent to US 90A, upon completion of due diligence and upon dedication by BC Business Park, L.P., in a form substantially similar to the proposed attached special warranty deed.

### **BACKGROUND**

To provide for public safety, on October 20, 2008, by Ordinance No. O-08-58, City Council authorized the vacation, closure and abandonment of Cravens Road at the Union Pacific Railroad crossing. When the roadway is no longer available for vehicular traffic across the railroad tracks, it will be necessary to construct a cul-de-sac to allow vehicles to turn around at the dead end of Cravens Road. In particular, a cul-de-sac is necessary for Fire Department apparatus to turn around should the apparatus be required on Cravens Road.

BC Business Park, LP, is the owner of the property on each side of Cravens Road at the railroad tracks. BC Business Park, LP, has agreed to convey the additional property required for the cul-de-sac, at no cost to the City. BC Business Park, LP, has acknowledged the City desire to have the deed include a release of any claims it or its related entities may have resulting from the vacation, closure and abandonment of Cravens Road at the railroad tracks. BC Business Park, L.P., has indicated that it will consider including such a release. The proposed special warranty deed contains such a release.

### FISCAL ANALYSIS

The property is being conveyed without cost to the City. The City will be required to bear the expense of the construction of the cul-de-sac.

### STAFF'S RECOMMENDATION

Staff recommends approval.

Frank Simpson City Manager

### **Special Warranty Deed**

Date:	,	2009

Grantor: BC BUSINESS PARK LP

Grantor's

Mailing Address: 510 Bering, Suite 310

Houston, Harris County, Texas 77057

Grantee: CITY OF MISSOURI CITY, TEXAS

Grantee's

Mailing Address: 1522 Texas Parkway,

Missouri City, Fort Bend County, Texas 77489

Consideration: Grantee will construct cul-de-sac improvements (utilizing Grantee's

infrastructure standards) on Cravens Road on and between the two separate parcels that make up the Property (hereinafter defined) and Grantor releases and discharges Grantee from any claims or damages incurred by Grantor alleged to arise from Grantee's closure of Cravens Road by Ordinance No. O-08-58, adopted by

Grantee on October 20, 2008.

Property (including any improvements): The Property conveyed is described in two tracts on Exhibit A attached hereto.

### RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

This conveyance is made and accepted subject to (i) Grantor's disclaimer of any warranty regarding express, implied or prescriptive easements or rights of access to and from the Property; (ii) all zoning laws, regulations, ordinances and notices of municipal and/or other governmental authorities, if any, but only to the extent that such are still in effect, relating to the Property; and (iii) any and all easements, encumbrances, restrictions and other matters shown of record in Fort Bend County, Texas relating to the Property; and (iv) all matters which would be reflected on an accurate survey of the Property.

Grantor, for the Consideration (the receipt and sufficiency of which are hereby acknowledged), and subject to the Reservations From and Exceptions to Conveyance and Warranty, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL and CONVEY unto Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging.

TO HAVE AND TO HOLD the Property to Grantee and Grantee's successors and assigns forever, subject only to the Reservations From and Exceptions to Conveyance and Warranty. Grantor hereby binds Grantor and Grantor's successors to warrant and

forever defend, all and singular, the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations From and Exceptions to Conveyance and Warranty, when the claim is made by, through or under Grantor but not otherwise.

It is expressly understood and agreed that Grantee, by its acceptance of this Deed, is acquiring the Property "As Is," with any and all existing environmental conditions and any latent and patent defects, and that there is no warranty by Grantee that the Property is fit for any particular purpose or free from any hazardous substances, "release" (as such term is defined or otherwise used in connection with any applicable environmental laws), or adverse physical condition. Purchaser acknowledges that it is not relying upon any warranty, representation, statement or other assertion with respect to the condition of the Property, but is relying upon its own examination of the Property. PURCHASER TAKES THE PROPERTY ON THE EXPRESS UNDERSTANDING THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES WHATSOEVER (INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR USE OR PURPOSE), EXCEPT FOR THE WARRANTY OF TITLE SET FORTH IN THIS DEED.

All ad valorem taxes and assessments for the Property shall be paid in accordance with Texas Tax Code, Section 26.11.

Grantor was formerly known as BC Business Park LLC prior to the completion of a statutory conversion on or about May 24, 2004.

EXECUTED effective the date set forth above.

**GRANTOR:** 

BC Business Park LP, a Texas limited partnership

By: BC Business Park GP LLC, its general partner

By: _		
Name:_		
Title:		

STATE OF TEXAS	§
COUNTY OF HARRIS	§ § §
March, 2007, by,	was acknowledged before me on the day of of BC Business Park GP LLC, a Texas eral partner of BC Business Park LP, a Texas limited ties.
(notary public seal)	Notary Public Signature
Accepted:	GRANTEE CITY OF MISSOURI CITY, TEXAS
	Allen Owen, Mayor
Attest:	
Patrice Fogarty, City Secretary	
After recording, return to: Legal Department City of Missouri City of Missouri C 1522 Texas Parkway Missouri City, Texas 77489	ity

### Exhibit A

### The Property

### **Legal Description:**

A tract of land containing 0.0216 Acre (941 sq. ft.) of land being out of Residue of a called 72.656 acre tract of land as described to BC Business Park LP, as recorded under Fort Bend County Clerk's File No. 2004113471, also being a Southwesterly portion of right-of-way taking along the Southwesterly right-of-way line of Cravens Road (width varies), Fort Bend County, Texas, said 0.0216 Acre tract being described by metes and bounds as follows:

**BEGINNING** at a 5/8 inch iron rod with Tri-Tech cap set along the Northwesterly right-of-way line of GH & SA Railroad Southern Pacific (100 feet wide) and along the Southwesterly right-of-way line of said Cravens Road, also being the Northeasterly corner of said BC Business Park LP, for the **POINT OF BEGINNING** and Southeasterly corner of herein described tract;

THENCE South 64°28'08" West, along the Northwesterly right-of-way line of said GH & SA Railroad Southern Pacific and the common Southeasterly line of said BC Business Park LP, at a distance of 10.80 to a set 5/8 inch iron rod with Tri-Tech cap being the Southwesterly corner of herein described tract;

**THENCE** North 47°44'17" West, at a distance of 92.03 feet to a set 5/8 inch iron rod with Tri-Tech cap being the Northwesterly corner of herein described tract;

**THENCE** North 42°15'43" East, at a distance of 10.00 feet to a 5/8 inch iron rod with Tri-Tech cap set along the Southwesterly right-of-way line of said Cravens Road and being the Northeasterly corner of herein described tract;

**THENCE** South 47°44'17" East, along the Southwesterly right-of-way line of said Cravens Road, at a distance of 96.11 feet to the **POINT OF BEGINNING** and containing 0.0216 Acre (941 sq. ft.) of land

- 1.) THIS FIELD NOTE DESCRIPTION IS PART OF THE PLAT OF SAME DATE. (PLAT BEING PAGE 2 OF 2).
- 2.) BEARINGS ARE BASED: REFERRED TO TEXAS STATE PLANE COORDINATE SYSTEM SOUHT CENTRAL ZONE 4204.
- 3.) THIS FIELD NOTE DESCRIPTION VALID FOR THIS TRANSACTION ONLY.
- 4.) THE SQUARE FOOTAGE AND ACREAGE VALUES SHOWN HEREON ARE MATHEMATICAL VALUES CALCULATED FROM THE BOUNDARY DATA SHOWN HEREON. THESE VALUES IN NO WAY REPRESENT THE PRECISION OF CLOSURE OF THIS SURVEY OR THE ACCURACY OF BOUNDARY MONUMENTS FOUND OR SET.

CODY L. CONDRON, R.P.LS. NO. 5899

4-03-2008

JOB NO. 6755-08 PAGE 1 OF 3

### Exhibit A

### The Property

### **Legal Description:**

A tract of land containing 0.0929 Acre (4,047 sq. ft.) of land being out of Residue of a called 68.7291 acre tract of land as described to BC Business Park LP, as recorded under Fort Bend County Clerk's File No. 2004091401, also being a portion of right-of-way taking along the Northeasterly right-of-way line of Cravens Road (width varies), Fort Bend County, Texas, said 0.0929 Acre tract being described by metes and bounds as follows:

**BEGINNING** at a 5/8 inch iron rod with Tri-Tech cap set along the Northwesterly right-of-way line of GH & SA Railroad Southern Pacific (100 feet wide) and along the Northeasterly right-of-way line of said Cravens Road, being the Southwesterly corner of herein described tract, from which a found 5/8 inch iron rod with cap bears North 40° West, at a distance of 3.75 feet;

THENCE North 47°44'17" West, along the Northeasterly right-of-way line of said Cravens Road and the common Southwesterly line of herein described tract, at a distance of 128.77 feet to a 5/8 inch iron rod with Tri-Tech cap set along the Northeasterly right-of-way line of said Cravens Road and being the Northwesterly corner of herein described tract;

**THENCE** North 42°15'43" East, at a distance of 30.00 feet to a set 5/8 inch iron rod with Tri-Tech cap being the Northeasterly corner of herein described tract;

**THENCE** South 47°44'17" East, at a distance of 141.02 feet to a 5/8 inch iron rod with Tri-Tech cap set along the Northwesterly right-of-way line of said GH & SA Railroad Southern Pacific and being the Southeasterly corner of herein described tract;

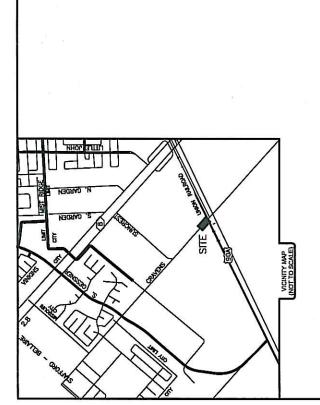
**THENCE** South 47°44'17" East, along the Southwesterly right-of-way line of said Cravens Road, at a distance of 96.11 feet to the **POINT OF BEGINNING** and containing 0.0929 Acre (4,047 sq. ft.) of land.

- 1.) THIS FIELD NOTE DESCRIPTION IS PART OF THE PLAT OF SAME DATE. (PLAT BEING PAGE 2 OF 2).
- 2.) BEARINGS ARE BASED: REFERRED TO TEXAS STATE PLANE COORDINATE SYSTEM SOUHT CENTRAL ZONE 4204.
- 3.) THIS FIELD NOTE DESCRIPTION VALID FOR THIS TRANSACTION ONLY.
- 4.) THE SQUARE FOOTAGE AND ACREAGE VALUES SHOWN HEREON ARE MATHEMATICAL VALUES CALCULATED FROM THE BOUNDARY DATA SHOWN HEREON. THESE VALUES IN NO WAY REPRESENT THE PRECISION OF CLOSURE OF THIS SURVEY OR THE ACCURACY OF BOUNDARY MONUMENTS FOUND OR SET.

CODY/L. CONDRON, R.P.LS. NO. 5899

4-03-2008

JOB NO. 6755-08 PAGE 2 OF 3



# Legal Description:

A tract of land containing 0.0216 Acre (941 sq. ft.) of land being out of Residue of a called 72.656 acre tract of land as described to BC Business Park It.), as recorded under Fort Bend County (Clerk's Film No. 2004/14377, also being a Southwesterly portion of right-of-way Ishing along the Southwesterly right-of-way line of Cravers Road (width varies), Fort Bend County, Texas, said 0.0216 Acre tract being described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with Tri-Tech cap set along the Northwesterly right-of-way line of GH & SA Raliroad Southern Pacific (100 feet wide) and along the Southwesterly right-of-way line of said Cravens Road, being the Northeasterty comer of said BC Business Park LP, for the POINT OF BEGINNING and Southeaste being the Northeasterly comer of comer of herein described tract;

THENCE South 64\*28'08" West, along the Northwesterly right-of-way line of said GH & SA Railroad Southern Pacific and the common Southeasterly line of said BC Business Park LP, at a distance of 10.80 to a set 5/8 inch iron rod with Tri-Tech cap being the Southwesterly comer of herein described tract;

THENCE North 47\*4417" West, at a distance of 92.03 feet to a set 5/8 inch iron rod with Tri-Tech cap being the Northwesterly comer of herein described tract,

THENCE North 42\*1543" East, at a distance of 10.00 feet to a 5/8 inch iron rod with Tri-Tech cap set along the Southwesterly right-of-way line of said Cravens Road and being the Northeasterly comer of herein described Iract,

THENCE South 47\*4417. East, along the Southwesterly right-of-way line of said Cravens Road, at a distance of 96.11 feet to the POINT OF BEGINNING and containing 0.0216 Acre (941 sq. ft.) of land.

# Legal Description:

A fract of land containing 0.0929 Acre (4,047 sq. ft.) of land being out of Residue of a called 68,7291 acre tract of land as described to 8C Business Park LP, as recorded under Fort Bend County Clerk's File No. 2004/031401, also being a portion of right-of-way taking along the Northeasterly inplu-of-way line of Cravens Road (width varies). Fort Bend County, Tewas, said 0.0292 Acre tract being described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with Tri-Tech cap set along the Northwesterly right-of-way line of GH & S.A Railroad Southern Pacific (100 feet wide) and along the Northeasterly right-of-way line of said Cravens Road, be the Southwesterly corner of herein described tract, from which a found 5/8 inch iron rod with cap bears North 4 West, at a distance of 3.75 feet;

THENCE North 47\*44'17" West, along the Northeasterly right-of-way line of said Cravens Road and the common Southwesterly line of herein described tract, at a distance of 128.77 feet to a 5/8 inch iron rod with Tri-Tech cap set along the Northwesterly comer of herein described tract;

THENCE North 42"1543" East, at a distance of 30.00 feet to a set 5/8 inch iron rod with Tri-Tech cap being the Northeasterfy comer of herein described tract;

THENCE South 47\*4417" East, at a distance of 141.02 feet to a 5/8 inch iron rod with Tri-Tech cap set along Northwesterly right-of-way line of said GH & SA Railroad Southem Pacific and being the Southeasterly comer. herein described tract; THENCE South 47\*4417" East, along the Southwesterly right-of-way line of said Cravens Road, at a distance 96.11 feet to the POINT OF BEGINNING and containing 0.0929 Acre (4,047 sq. ft.) of land.

**IRON FENCE** WOOD FENCE CALL ۸ ۷ CONCRETE COVERED

REVISION •

CONTROLLING
MONUMENT 2-23-07 -- CHAIN LINK FENCE LEGEND

OHU = OVERHEAD UTILITIES BL:
UE = UTILITY EASEMENT
AE = AERIAL EASEMENT
WLE = WATERLINE EASEMENT MH
WLE = WATERLINE EASEMENT MH
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT

BL = BUILDING LINE PL = BOUNDARY LINE PP = POWER POLE MH = MANHOLE

FND = FOUND I.R. = IRON ROD I.P. = IRON PIPE FNC = FENCE COMMON ABBREVIATIONS

BEARINGS REFERENCED TO TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE 4204. DISTANCES ARE TRUE AND CAN BE CONVERTED TO GRID BY APPLYING A SCALE FACTOR OF 0:99987695718.

SEE FIELD NOTE DESCRIPTIONS PAGES 1-2 OF 3 OF SAME DATE, PLAT BEING PAGE 3 OF 3.

RESIDUE OF CALLED 69.406 ACRES BC BUSINESS PARK LP (F.B.C.C.F. 2004091401)

· 5. 8 05 A

CRAYENS ROAD CHARIABLE R.O.W.

15, 315 ONF 15, 13 TO WE WEST

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Sold Portion

With Will Will I

PAGE 3 OF 3

ALL EASEMENTS AND BUILDING LINES SHOWN ARE PER THE RECORDED PLAT UNLESS OTHERWISE NOTED.

SUBJECT TO A DRAINAGE EASEMENT ON EACH SIDE OF THE CENTERLINE OF ALL NATURAL DRAINAGE COURSES.

SUBJECT TO RESTRICTIVE COVENANTS AND EASEMENTS IF ANY.

4. ALL BUILDING LINES, EASEMENTS, BUILDING RESTRICTIONS (DEED RESTRICTIONS, ETC.) AND ZONING ORDINANCES, IF ANY, THAT MAY AFFECT SUBJECT PROPERTY SHOULD BE VERIFIED PRIOR TO PLANNING AND/OR CONSTRUCTION.

5. NO IMPROVEMENTS HAVE BEEN SHOWN HEREON

- FND 5/8" I.R. BEARS N 40" W 3.75"

5 64.78.08.

14**0**)

3.5.000 N

6. SURFACE OR SUBSURFACE FAULTING, HAZARDOUS WASTE, MINERAL RIGHTS, WETLAND DESIGNATION OR OTHER ENVIRONMENTAL ISSUES AND ARCHEOLOGICAL ISSUES HAVE NOT BEEN ADDRESSED WITHIN THE SCOPE OF THIS SURVEY.

7. A GROUND AND/OR AERIAL EASEMENT MAY EXIST ADJACENT TO ANY EXISTING UTILITY. OWNER/BUILDER MUST VERIEY CLEARANCE OF OVERHEAD UTILITIES AND EASEMENTS WITH APPLICABLE UTILITY COMPANIES PRIOR TO PLANNING AND/OR CONSTRUCTION.

8 BURIED UTILITIES HAVE NOT BEEN SHOWN, VERIFY ALL UTILITIES PRIOR TO CONSTRUCTION.

. 7515

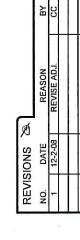
S 64.78'08" 4

0.60

RESIDUE OF CALLED 72.656 ACRES BC BUSINESS PARK LP (F.B.C.C.F. 2004113471)

(MOR OUT) JAILANG MESHTUDE CHOOK MA. H. H.

9. ALL RODS SET 5/8" IR WITH "TRI-TECH" CAP, UNLESS OTHERWISE NOTED. \*



(475° R.O.W.)

FLOOD INFORMATION 📑
F.I.R.M. NO. 48157C PANEL: 0250J REVISED DATE 1-03-1997 ZONE: "X"
FLOOD INFORMATION PROVIDED HEREON IS BASED ON SCALING THE LOCATION OF THE SUBJECT TRACT ON THE KLOOD INSURANCE RATE MAPS. THE INFORMATION SHOULD BE USED TO DEFIERMINE FLOOD INSURANCE RATES ONLY AND IS NOT INTENDED TO IDENTIFY SPECIFIC FLOODING CONDITIONS. WE ARE NOT RESPONSIBLE FOR THE FIRM'S ACCURACY.

SEARCH BY THE SURVEYOR. THE ENCUMBRANCES OF RECORD, AS REFLECTED ON THIS SURVEY ARE BASED ON THE RECORDED MAP OR PLAT AND/OR DEEDS AND TITLE INFORMATION OWNERBUILDER SHOULD VERIEY ALL BUILDINGS LINES, EASEMENTS, RESTRICTION, AND ORDINANCES, IF ANY, AS SHOWN HEREON.

CERTIFICATION

ABSTRACT INFORMATION PROVIDED HEREON IS BELIEVED TO BE SUFFICIENT AND CORRECT BY THE UNDERSIGNED SURVEYOR, THIS SURVEY DOES NOT CONSTITUTE A TITLE

I, the undersigned registered professional land surveyor, do hereby state that the plat shown hereon represents a boundary survey made on the ground under my guidance and supervision of the tract or parcel of land, according to the map or plat and/or deeds thereof, indicated hereon.

THIS SURVEY IS NULL AND VOID WITHOUT THE ORIGINAL EMBOSED SEALAND SIGNATURE OF SURVEYOR THIS SURVEY'S YAUD FOR THIS TRANSACTION O'LLY.



SURVEYOR REGISTRATION

RIGHT-OF-WAY EXHIBIT

CRAVENS ROAD AT U.S. 90-A MISSOURI CITY, FORT BEND COUNTY, TEXAS 77489

a division of Tri-Tech Surveying, L.P. W.W., SURVE YING COMPANY. COM 10401 Westoffice Drive Phone. (713) 667-0848 Houston, Texas 77042 Fax. (713) 667-5848 of Tri-Tech Surveying, L.P.

GLOBAL SURVEYORS

LOT (SEE LEGAL DESCRIPTION)
BLOCK: NA
SUBDIVISION: NA
RECORDING: NA BORROWER: NA
TITLE CO: NIA
G.F. NO NIA
G.F. EFFECTIVE DATE: NIA
SURVEYED FOR: CITY OF MISSOURI CITY

	ON GO	6755-08
ENCI	FNCIIMB STUDY	N/A
<u></u>	CALCBY	C.CONDRON
	DRAWN BY	D.JILANI
-	CHECKED BY:	C.CONDRON
BEA	BEARING BASE	(SEE NORTH ARROW)
<u>u</u>	FIFLD CREW(A)	J.SLEDGE
II.	FIFT D CREW (B)	J.HERNDON
	FIELD DATE	4-03-2008
_	DWG SCALE	1"=60"
PATH	3	G:\2008\Global Surveyors\6755-08 (see 6712-07)\dwg\BNDRY.dwg



7. PUBLIC COMMENTS

An opportunity for the public to address Council on items/concerns not on this agenda.

8. PUBLIC HEARINGS

There are no Public Hearings at this time.



### 9. PUBLIC HEARING AND CONSIDERATION OF ZONING ORDINANCES

(a) Public hearing to receive comments for or against a request by **Cesar Corrales of Ted Trout Architect and Associates, Ltd.**, on behalf of the BW8 200, LP, to rezone an approximately 7.712-acre tract of land from MF-1, Multifamily Residential District to PD, Planned Development District to allow for deviations to the City's Zoning Ordinance to locate an **age-restricted**, **senior living development**; providing a penalty; providing for severability; and to **consider the ordinance on the second and final reading**. The subject site is located southeast of the intersection of S. Gessner Road. and Beltway 8 and west of South Main Gardens.

Backgro	ound information attached as follows:
	Cover Memo
ı	Ordinance
1	Ortho Map
:	200' Analysis
	Changes Marked



### Council Agenda Item Cover Memo January 20, 2009

To: Mayor and City Council

**Agenda Item:** 9a Hometowne at Missouri City – PD Application

Submitted by: Yolanda Ford, Planner I

### **SYNOPSIS**

This is the **second and final reading** for a request by Cesar Corrales on behalf of BW8 200 LP to rezone a 7.71 acre tract of land from MF-1, Multifamily Residential District to PD, Planned Development District to allow for deviations to the City's Zoning Ordinance for the construction of a senior living facility restricted to residents of at least 55 years of age.

The subject site is located southeast of the intersection of S. Gessner Rd and Beltway 8, west of South Main Gardens and south and east of the Missouri City Limits.

### **BACKGROUND**

The applicant proposes to develop Hometowne at Missouri City, which will be a 7.71-acre tract development that is age-restricted, senior living located northeast of Beltway 8 at the city limits.

Hometowne at Missouri City is planned to consist of a total of 108 dwelling units within five (5) multifamily residential buildings and a community clubhouse. Rental rates for a 1 bedroom (approximately 650 – 750 sq ft) are between \$280/mth to 650/mth and a 2 bedroom (approximately 950 sq ft) are between \$350/mth to \$745/mth. The associated amenities will be catered meals, a library, internet access, screening room, trash pickup, washer/dryer connections and bus service for residents. The applicant has also indicated that the average age of residents will be about 73 years and that roughly half of the residential population would be single women above the age of 75 years.

As included in the Final Report, the applicant is requesting deviations that would allow for an increase in the number of dwelling units per net platted acre, for an increase in the number of dwelling units per building, for a reduction in the size of the greenbelt, for the installation of Hardie-Plank<sup>TM</sup> on patio exterior walls/balconies, for the use of composition shingle roofing and for a reduction in the minimum number of parking spaces provided.

The Council approved this application on the first reading. As a result of the discussion during the first reading, the applicant is now requesting additional deviations. These deviations are the installation of Hardie-Plank<sup>TM</sup> on the garage's exterior facades and the installation of shingles on all buildings and structures except for the clubhouse. Staff is requesting Council to consider approval/disapproval of the aforementioned deviations.

### STAFF'S RECOMMENDATION

Consider approval/disapproval of the additional deviation request.

Bill Atkinson

Assistant City Manager

### ORDINANCE NO. O-09-\_

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, CHANGING THE ZONING CLASSIFICATION OF A 7.712-ACRE TRACT OF LAND FROM MF-1 MULTIFAMILY RESIDENTIAL DISTRICT TO PD PLANNED DEVELOPMENT DISTRICT NO. \_\_; REGULATING AND THE USE, SIZE, HEIGHT AND DENSITY RESTRICTING BUILDINGS. THE SIZE OF YARDS AND THE TYPE OF USE WITHIN SUCH PD PLANNED DEVELOPMENT DISTRICT; REFERENCING A SITE PLAN APPLICABLE TO SAID DISTRICT: PROVIDING FOR CERTAIN CONSTRUCTION ACCORDING SAID TO DESCRIBING SAID 7.712-ACRE TRACT OF LAND; AMENDING THE ZONING DISTRICT MAP OF THE CITY AS ADOPTED BY ORDINANCE NO. O-81-1 ADOPTED ON JANUARY 19, 1981, AS AMENDED; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

\* \* \* \*

WHEREAS, BW8 200, LP is the owner of a 7.712-acre tract of land situated within the corporate limits of the City of Missouri City, Texas; and

WHEREAS, the 7.712-acre tract of land, presently has a zoning classification of MF-1 Multifamily Residential District under Ordinance No. O-81-1, adopted on January 19, 1981, the City of Missouri City Zoning Ordinance, as amended; and

WHEREAS, Cesar Corrales of Ted Trout Architects, as agent for and on behalf of the owner, has made application to the City of Missouri City to change the zoning classification of said 7.712-acre tract of land from MF-1 Multifamily Residential District to PD Planned Development District No. \_\_\_, as authorized by the City of Missouri City Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Missouri City have each conducted, in the time and manner and after the notice required by law and the City of Missouri City Zoning Ordinance, a public hearing on such proposed change in the zoning classification; and

WHEREAS, the Planning and Zoning Commission has issued its final report and the City Council now deems it appropriate to grant such requested change in the zoning classification; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

<u>Section 1.</u> The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

<u>Section 2.</u> As required by law, City Council conducted the public hearing on the request for zoning reclassification and closed the public hearing prior to final adoption of this Ordinance.

<u>Section 3.</u> Presently, said 7.712-acre tract of land has a zoning classification of MF-1 Multifamily Residential District. The zoning classification of said 7.712-acre tract of land is hereby changed from MF-1 Multifamily Residential District to PD Planned Development District No. \_\_\_ . The 7.712-acre tract of land is more fully described in the legal description, Exhibit "A", attached hereto and made a part hereof for all purposes.

<u>Section 4.</u> PD Planned Development District No. \_\_ shall be and is subject to the following regulations and restrictions:

- **A. Purpose.** PD, Planned Development District No. \_\_ is presently comprised of an undeveloped tract and will be designed for a senior living development. Improvements to the site will be designed to enhance the overall urban design and nature of the surrounding area.
- **B. Use Regulations.** In the PD, Planned Development District No. \_\_\_, no building, structure, or land shall be used and no building or structure shall be hereafter erected, reconstructed, altered or enlarged except as provided in this Ordinance.

The following uses shall be permitted:

- 1. Senior Living facility restricted to residents of at least 55 years of age.
- **C.** Height and Area Regulations. Except as set forth herein, the height and area regulations for MF-1, Multifamily Residential Districts, contained in Section 7.8 of the Zoning Ordinance, shall apply.
  - 1. A maximum density of eighteen (18) dwelling units per net platted acre shall be permitted.
  - 2. The development shall not exceed a total of 108 dwelling units based on the following building types, as depicted on the site plan of the development, attached as Exhibit "B" hereto:

Building Type 1 may have a maximum of 24 dwelling units, Building Type 2 may have a maximum of 12 dwelling units, and Building Type 3 may have a maximum of 20 dwelling units

3. The development is allowed a 19% reduction in the amount of greenbelt required. The required greenbelt for the development must total a minimum of 65,674 square feet. The development shall install

and maintain, along the western property line and drainage area, landscaping as depicted on the site plan attached hereto as Exhibit "B."

- **D. Architecture.** Except as set forth herein, all buildings and structures constructed shall comply with Section 7A, Architectural Design Standards of the City of Missouri City Zoning Ordinance.
  - The use of fiber cement siding such as Hardie-Plank<sup>™</sup> is allowed on patio exterior walls, breeze way and the nonstructural portions of the building's exterior located above the roofline.
  - 2. Composite shingles may be installed on the residential buildings.
- **E. Building Regulations.** Except as set forth in this ordinance, all buildings and structures within PD Planned Development District No. \_\_ are required to meet the regulations for MF-1, Multifamily Residential District, contained in Section 7.8 of the City of Missouri City Zoning Ordinance. Additionally, any use of temporary buildings, other than for construction trailers during construction, shall be prohibited.
- **F. Building and Fire Codes.** All buildings and structures within PD Planned Development District No. \_\_ shall comply with the Code of Ordinances of the City of Missouri City, including the building and fire codes of the City of Missouri City.
- **G. Lighting.** Lighting shall comply with Section 7.95.D.2. of the City of Missouri City Zoning Ordinance. Additionally, all lighting fixtures shall be uniform and shall be selected to enhance and complement the style and design of the development.
- H. Trash Disposal, Refuse and Service Areas. Trash disposal areas shall meet the requirements of Section 9.14 of the City of Missouri City Zoning Ordinance.
- **I.** Landscaping, Screening and Buffering. The requirements of Section 11, Landscaping, of the City of Missouri City Zoning Ordinance shall apply.
- **J. Ingress and Egress.** All driveways shall comply with the City Infrastructure Code.
- **K. Parking Regulations.** Except as set forth herein, the requirements for multifamily use of Section 12, Parking Regulations, of the City of Missouri City Zoning Ordinance shall apply.

- 1. A 37% reduction in the required number of parking spaces is permitted. A minimum of 134 parking spaces shall be provided.
- **L. Sign Regulations.** Signage shall meet the requirements of Section 13, Sign Regulations, of the City of Missouri City Zoning Ordinance for an MF-1, Multifamily Residential District.
- **M. Fence Regulations.** The requirements of Section 14, Fence Regulations, for an MF-1, Multifamily Residential District of the City of Missouri City Zoning Ordinance, shall apply to the subject tract.
- N. Outdoor Display, Storage and Sales. Outdoor display, storage or sales shall not be permitted on the subject site.
- **O. Sidewalk.** All sidewalks shall comply with the applicable provisions of the Missouri City Code of Ordinances, including the Infrastructure Code.
- **P. Sound.** Sound emanating from PD Planned Development District No. \_\_\_ shall comply with the City of Missouri City Code of Ordinances. Additionally, the amplification of sound to the outside of buildings shall be prohibited
- **Q. Utilities.** The provision and construction of utilities shall comply with the City of Missouri City Infrastructure Code.
- **R. Construction Activity.** Construction shall be permitted only between the hours of 7:00 a.m. and 10:00 p.m., Monday through Saturday.
- **S. Development Schedule.** This ordinance shall expire on the fifth anniversary of the date the application for this planned development amendment was filed, in the event no progress has been made towards completion of this project.

<u>Section 5.</u> The Zoning District Map of the City of Missouri City shall be revised and amended to show the zoning classification of said 7.712-acre tract of land granted by this Ordinance, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of this change.

<u>Section 6.</u> This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Missouri City, save and except the change in zoning classification granted by this Ordinance and the imposition of the findings, regulations, restrictions and conditions applicable to PD Planned Development District No. contained herein.

<u>Section 7.</u> Penalty. Any person, firm, partnership, association, corporation, company, or organization of any kind who or which violates any provisions of this zoning ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall

be fined in an amount not to exceed Five Hundred Dollars (\$500.00). Each day during which said violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this zoning ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense unless otherwise prohibited by law and, upon conviction thereof, shall be punished as above provided.

<u>Section 8.</u> In the event any section, paragraph, subdivision, clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this 5th day of January 2009

Thouse and the troves of motiodaling the <u>our</u> day of <u>ouridary</u> , 2000.		
PASSED, APPROVED and ADC	OPTED on second and final reading this	
day of, 2009.		
	Allen Owen, Mayor	
ATTEST:	APPROVED AS TO FORM:	
Patrice Fogarty, City Secretary	Caroline Kelley, City Attorney	

NOTTING HILL APARTMENTS 0.1673 ACRES, 343,227 SQ. FT.

AUGUST 15, 2008 JOB NO. TED01-60

#### DESCRIPTION OF 0.1673 ACRE TRACT OF LAND SITUATED IN THE H.T. & B. R. R. CO SURVEY, ABSTRACT NO. 396 OF HARRIS COUNTY, TEXAS

BEING a 0.1673 acre tract of land situated in the H.T & B. R. R. Co Survey, Abstract No. 396 in Harris County, Texas and being out of a tract of land called 7.884 acres described in Harris County Clerk's File No. 20070642888 said 0.1673 acres described as follows:

**COMMENCING** at a 5/8-inch iron rod found marking the northwest corner of said called 7.884 acres and an interior corner of a 130 foot easement and right-of-way recorded at Harris County Clerk's File Number F239829;

THENCE S 02°15'22" E, a distance of 544.58 feet to a point for the **POINT OF BEGINNING** from which a found 5/8-inch iron rod bears N 73°39' E 0.65 feet;

THENCE S 02°15'22" E, a distance of 170.71 feet to a point for corner in the northeast right-of-way line of Beltway 8 (300 feet wide);

THENCE N 47°48'29" W, along the northeast line of said Beltway 8, a distance of 119.62 feet to a point for the west corner of the herein described tract and the southeast corner of said 130 foot easement and right-of-way from which a found 5/8-inch iron rod bears S 47°42' E 0.42 feet

THENCE N 42°13'46" W, a distance of 121.86 feet to the **POINT OF BEGINNING** and containing 0.1673 acres of land.

Bearings are based on the Texas State Plane Coordinate System, South Central Zone, NAD-83 and was established by GPS observations, and monumentation found at the northwest and northeast corner of said 7.884 acres.

8-21-08

Paul A. Jurica, Jr. RPLS No. 4264 Brown & Gay Engineers, Inc.

10777 Westheimer, Suite 400 Houston, Texas 77042 Telephone: 281-558-8700 NOTTING HILL APARTMENTS 7.712 ACRES, 343,227 SQ. FT.

AUGUST 21, 2008 JOB NO. TED01-60

#### DESCRIPTION OF 7.712 ACRE TRACT OF LAND SITUATED IN THE H.T. & B. R. R. CO SURVEY, ABSTRACT NO. 396 OF HARRIS COUNTY, TEXAS

BEING a 7.712 acre tract of land situated in the H.T & B. R. R. Co Survey, Abstract No. 396 in Harris County, Texas and being out of tract of land called 7.884 acres described in Harris County Clerk's File No. 20070642888 said 7.712 acres described as follows:

**BEGINNING** at a 5/8-inch iron rod found marking the northwest corner of said called 7.884 acres in a south line of a 130 foot easement and right-of-way recorded at Harris County Clerk's File Number F239829;

THENCE N 87°28' 49" E, a distance of 373.07 feet to a 5/8-inch iron rod found for the northeast corner of the herein described tract of land from which a 1/2-inch iron pipe bears S 10°16' E, 0.60 feet;

THENCE S 02°18'19" E, a distance of 1083.87 feet along the east remainder of a called 15.288 acre tract (H.C.C.F. No. P545698) to a Mag Nail found in the northeast right-of-way line of Beltway 8 (300 feet wide) marking the southeast corner of the herein described tract of land;

THENCE N 47°48'29" W, along the northeast line of said Beltway 8, a distance of 523.89 feet to a point for the southwest corner of the herein described;

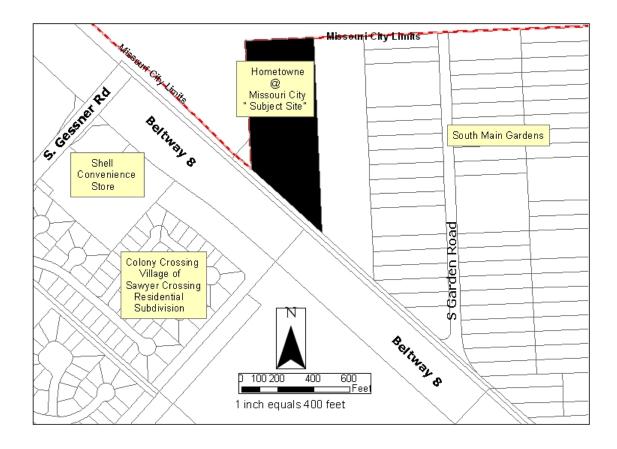
THENCE N 02°15'22" W, a distance of 715.29 feet over and across said 7.88 acres then along the east line of said 130-foot wide easement to the **POINT OF BEGINNING** and containing 7.712 acres of land.

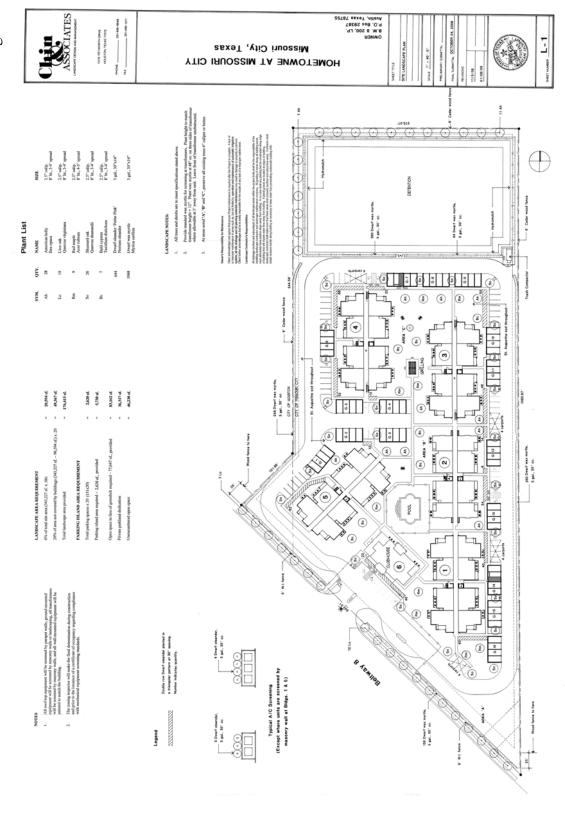
Bearings are based on the Texas State Plane Coordinate System, South Central Zone, NAD-83 and was established by GPS observations, and monumentation found at the northwest and northeast corners cited above.

8-21-08

Paul A. Jurica, Jr. RPLS No. 4264 Brown & Gay Engineers, Inc. 10777 Westheimer, Suite 400

Houston, Texas 77042 Telephone: 281-558-8700







# Rezoning Application Protest Letters Analysis City of Missouri City, Texas Planning Department

Application: Hometowne @ Missouri City – PD City Council Second Reading: January 20, 2009

#### Protest Letters Received from Property Owners Within 200 Feet of Subject Site:

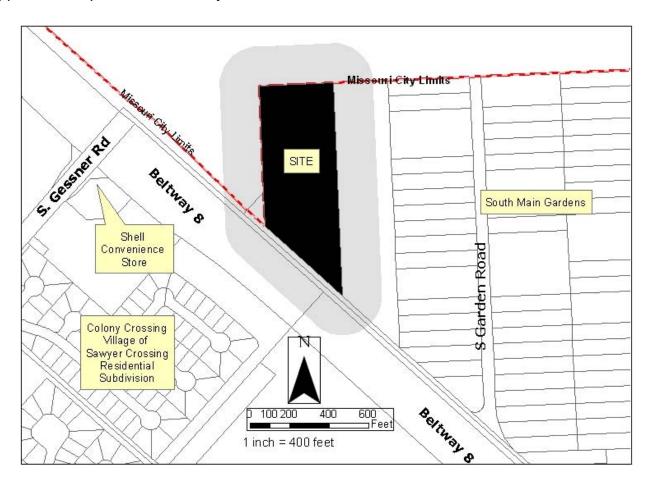
Name Address Area (s.f.) Within 200 Feet

TOTAL AREA REPRESENTED BY PROTESTS:

0 s.f.

TOTAL LAND AREA INCLUDING SUBJECT TRACT: 666,537.67 s.f. SUBJECT TRACT'S LAND AREA: 339,442.99 s.f. TOTAL LAND AREA ONLY WITHIN 200 FEET: 327,094.68 s.f. PERCENTAGE OF LAND AREA WITHIN 200 FEET: 0 %

Note: A total of 0 letters of support and 0 letters of protest have been received for the application request as of January 9, 2009.



### **Changes Marked**

#### ORDINANCE NO. O-09-\_

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, CHANGING THE ZONING CLASSIFICATION OF A 7.712-ACRE TRACT OF LAND FROM MF-1 MULTIFAMILY RESIDENTIAL DISTRICT TO PD PLANNED DEVELOPMENT DISTRICT NO. \_\_; REGULATING AND RESTRICTING THE USE, SIZE, HEIGHT AND DENSITY OF BUILDINGS. THE SIZE OF YARDS AND THE TYPE OF USE WITHIN SUCH PD PLANNED DEVELOPMENT DISTRICT; REFERENCING A SITE PLAN APPLICABLE TO SAID DISTRICT: PROVIDING FOR CERTAIN CONSTRUCTION ACCORDING TO SAID PLAN; DESCRIBING SAID 7.712-ACRE TRACT OF LAND; AMENDING THE ZONING DISTRICT MAP OF THE CITY AS ADOPTED BY ORDINANCE NO. O-81-1 ADOPTED ON JANUARY 19, 1981, AS AMENDED; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

\* \* \*

WHEREAS, BW8 200, LP is the owner of a 7.712-acre tract of land situated within the corporate limits of the City of Missouri City, Texas; and

WHEREAS, the 7.712-acre tract of land, presently has a zoning classification of MF-1 Multifamily Residential District under Ordinance No. O-81-1, adopted on January 19, 1981, the City of Missouri City Zoning Ordinance, as amended; and

WHEREAS, Cesar Corrales of Ted Trout Architects, as agent for and on behalf of the owner, has made application to the City of Missouri City to change the zoning classification of said 7.712-acre tract of land from MF-1 Multifamily Residential District to PD Planned Development District No. \_\_\_, as authorized by the City of Missouri City Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Missouri City have each conducted, in the time and manner and after the notice required by law and the City of Missouri City Zoning Ordinance, a public hearing on such proposed change in the zoning classification; and

WHEREAS, the Planning and Zoning Commission has issued its final report and the City Council now deems it appropriate to grant such requested change in the zoning classification; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

<u>Section 1.</u> The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

<u>Section 2.</u> As required by law, City Council conducted the public hearing on the request for zoning reclassification and closed the public hearing prior to final adoption of this Ordinance.

<u>Section 3.</u> Presently, said 7.712-acre tract of land has a zoning classification of MF-1 Multifamily Residential District. The zoning classification of said 7.712-acre tract of land is hereby changed from MF-1 Multifamily Residential District to PD Planned Development District No. \_\_\_. The 7.712-acre tract of land is more fully described in the legal description, Exhibit "A", attached hereto and made a part hereof for all purposes.

<u>Section 4.</u> PD Planned Development District No. \_\_ shall be and is subject to the following regulations and restrictions:

- **A. Purpose.** PD, Planned Development District No. \_\_ is presently comprised of an undeveloped tract and will be designed for a senior living development. Improvements to the site will be designed to enhance the overall urban design and nature of the surrounding area.
- **B. Use Regulations.** In the PD, Planned Development District No. \_\_\_, no building, structure, or land shall be used and no building or structure shall be hereafter erected, reconstructed, altered or enlarged except as provided in this Ordinance.

The following uses shall be permitted:

- 1. Senior Living facility restricted to residents of at least 55 years of age.
- **C. Height and Area Regulations.** Except as set forth herein, the height and area regulations for MF-1, Multifamily Residential Districts, contained in Section 7.8 of the Zoning Ordinance, shall apply.
  - 1. A maximum density of eighteen (18) dwelling units per net platted acre shall be permitted.
  - 2. The development shall not exceed a total of 108 dwelling units based on the following building types, as depicted on the site plan of the development, attached as Exhibit "B" hereto:

Building Type 1 may have a maximum of 24 dwelling units, Building Type 2 may have a maximum of 12 dwelling units, and Building Type 3 may have a maximum of 20 dwelling units

- 3. The development is allowed a 19% reduction in the amount of greenbelt required. The required greenbelt for the development must total a minimum of 65,674 square feet. The development shall install and maintain, along the western property line and drainage area, landscaping as depicted on the site plan attached hereto as Exhibit "B."
- **D. Architecture.** Except as set forth herein, all buildings and structures constructed shall comply with Section 7A, Architectural Design Standards of the City of Missouri City Zoning Ordinance.
  - 1. The use of fiber cement siding such as Hardie-Plank<sup>TM</sup> is allowed on patio exterior walls, breeze way—and, the nonstructural portions of the building's exterior located above the roofline—and on the exterior facades of garages.
  - 2. Composite shingles may be installed on the residential buildings except the clubhouse.
- **E. Building Regulations.** Except as set forth in this ordinance, all buildings and structures within PD Planned Development District No. \_\_ are required to meet the regulations for MF-1, Multifamily Residential District, contained in Section 7.8 of the City of Missouri City Zoning Ordinance. Additionally, any use of temporary buildings, other than for construction trailers during construction, shall be prohibited.
- **F. Building and Fire Codes.** All buildings and structures within PD Planned Development District No. \_\_\_ shall comply with the Code of Ordinances of the City of Missouri City, including the building and fire codes of the City of Missouri City.
- **G. Lighting.** Lighting shall comply with Section 7.95.D.2. of the City of Missouri City Zoning Ordinance. Additionally, all lighting fixtures shall be uniform and shall be selected to enhance and complement the style and design of the development.
- H. Trash Disposal, Refuse and Service Areas. Trash disposal areas shall meet the requirements of Section 9.14 of the City of Missouri City Zoning Ordinance.
- **I.** Landscaping, Screening and Buffering. The requirements of Section 11, Landscaping, of the City of Missouri City Zoning Ordinance shall apply.
- **J. Ingress and Egress.** All driveways shall comply with the City Infrastructure Code.

- **K. Parking Regulations.** Except as set forth herein, the requirements for multifamily use of Section 12, Parking Regulations, of the City of Missouri City Zoning Ordinance shall apply.
  - 1. A 37% reduction in the required number of parking spaces is permitted. A minimum of 134 parking spaces shall be provided.
- **L. Sign Regulations.** Signage shall meet the requirements of Section 13, Sign Regulations, of the City of Missouri City Zoning Ordinance for an MF-1, Multifamily Residential District.
- **M. Fence Regulations.** The requirements of Section 14, Fence Regulations, for an MF-1, Multifamily Residential District of the City of Missouri City Zoning Ordinance, shall apply to the subject tract.
- N. Outdoor Display, Storage and Sales. Outdoor display, storage or sales shall not be permitted on the subject site.
- **O. Sidewalk.** All sidewalks shall comply with the applicable provisions of the Missouri City Code of Ordinances, including the Infrastructure Code.
- **P. Sound.** Sound emanating from PD Planned Development District No. \_\_\_ shall comply with the City of Missouri City Code of Ordinances. Additionally, the amplification of sound to the outside of buildings shall be prohibited
- **Q. Utilities.** The provision and construction of utilities shall comply with the City of Missouri City Infrastructure Code.
- **R. Construction Activity.** Construction shall be permitted only between the hours of 7:00 a.m. and 10:00 p.m., Monday through Saturday.
- **S. Development Schedule.** This ordinance shall expire on the fifth anniversary of the date the application for this planned development amendment was filed, in the event no progress has been made towards completion of this project.

<u>Section 5.</u> The Zoning District Map of the City of Missouri City shall be revised and amended to show the zoning classification of said 7.712-acre tract of land granted by this Ordinance, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of this change.

<u>Section 6.</u> This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Missouri City, save and except the change in zoning classification granted by this Ordinance and the imposition of the findings, regulations, restrictions and conditions applicable to PD Planned Development District No. \_\_ contained herein.

Section 7. Penalty. Any person, firm, partnership, association, corporation, company, or organization of any kind who or which violates any provisions of this zoning ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00). Each day during which said violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this zoning ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense unless otherwise prohibited by law and, upon conviction thereof, shall be punished as above provided.

Section 8. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED or 2009.	n first reading this day of
PASSED, APPROVED and A day of, 2009.	DOPTED on second and final reading this
	Allen Owen, Mayor
ATTEST:	APPROVED AS TO FORM:
Patrice Fogarty, City Secretary	Caroline Kelley, City Attorney

Document comparison done by Workshare Professional on Tuesday, January 13, 2009 1:16:34 PM

Input:	
Document 1	file://W:/LEGALPC/Zoning/Hometowne PD2.doc
Document 2	file://W:/LEGALPC/Zoning/Hometowne PD2 2nd reading prelim.doc
Rendering set	Standard

Legend:	
Insertion	
<del>Deletion</del>	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:		
	Count	
Insertions	6	
Deletions	4	
Moved from	0	
Moved to	0	
Style change	0	
Format changed	0	
Total changes	10	



# Council Agenda Item January 20, 2009

#### 9. PUBLIC HEARING AND CONSIDERATION OF ZONING ORDINANCES

(b) Public hearing to receive comments for or against a request by Llarance Turner of Kelly R. Kaluza & Associates, Inc., on behalf of II C.B., L.P., to rezone an approximately 54.307-acre tract of land from R-2, Single-Family Residential District to LC-3, Retail District; providing a penalty; providing for severability; and to consider the ordinance on the second and final reading. The subject site is located at the southeast intersection of US 90A (South Main Street) and South Cravens Road.

Back	ground information attached as follows:
	Cover Memo
	Ordinance
	Ortho Map
	200' Analysis



### Council Agenda Item Cover Memo January 20, 2009

To: Mayor and City Council

**Agenda Item: 9b** Ellis Tract – ZMA - R-2, Single-Family District to LC-3, Retail

**District** 

**Submitted by:** Yolanda Ford, Planner I

#### **SYNOPSIS**

This is the **second and final reading** for a request by Llarence Turner of Kelly Kaluza & Associates to rezone approximately 54.307 acres of land from R-2, Single-Family District to LC-3, Retail District. The subject site is located southeast of the intersection of US 90A-South Main St and S. Cravens Rd, west of the City of Missouri City Limits.

#### **BACKGROUND**

Currently, the approximate 54.307 acres are zoned R-2, Single-Family Residential District and are being rezoned by the applicant to LC-3, Retail District for marketing purposes.

The Council approved this application on the first reading with no changes.

#### STAFF'S RECOMMENDATION

Approve.

**Bill Atkinson** 

**Assistant City Manager** 

#### ORDINANCE NO. O-09-

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, CHANGING THE ZONING CLASSIFICATION OF A 54.307-ACRE TRACT OF LAND FROM R-2 SINGLE-FAMILY DISTRICT TO LC-3 RETAIL DISTRICT; AMENDING THE ZONING DISTRICT MAP OF THE CITY AS ADOPTED BY ORDINANCE NO. O-81-1 ON JANUARY 19, 1981, AS AMENDED; REPEALING ORDINANCE NO. O-04-54 ADOPTED ON NOVEMBER 15, 2004; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

\* \* \* \*

WHEREAS, II C.B., L.P. is the owner of a 54.307-acre tract of land within the corporate limits of the City of Missouri City, Texas; and

WHEREAS, said 54.307-acre tract of land presently has a zoning classification of R-2 Single-Family District under Ordinance No. O-04-54, adopted on November 15, 2004, the City of Missouri City Zoning Ordinance, as amended; and

WHEREAS, Llarence Turner, of Kelly Kaluza & Associates, as agent of and on behalf of the owner has made application to the City of Missouri City to change the zoning classification of said 54.307-acre tract of land from R-2 Single-Family to LC-3 Retail District, as authorized by the City of Missouri City Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Missouri City have each conducted, in the time and manner and after the notice required by law and the City of Missouri City Zoning Ordinance, a public hearing on such proposed change in the zoning classification; and

WHEREAS, the Planning and Zoning Commission has issued its final report and the City Council now deems it appropriate to grant such requested change in zoning classification; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

<u>Section 1</u>. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

<u>Section 2</u>. As required by law, City Council conducted the public hearing on the request for zoning reclassification and closed the public hearing prior to the final adoption of this Ordinance.

<u>Section 3</u>. The 54.307-acre tract of land presently has a zoning classification of R-2 Single-Family District. The zoning classification of said 54.307-acre tract of land is hereby changed from R-2 Single-Family District to LC-3 Retail District. The 54.307-acre tract of land is more fully described in Exhibit "A" attached hereto and made a part hereof for all purposes.

<u>Section 4</u>. The Zoning District Map of the City of Missouri City shall be revised and amended to show the zoning classification of said 54.307-acre tract of land as provided in Section 3 hereof, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of this change.

<u>Section 5</u>. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Missouri City, save and except the change in zoning classification of the 54.307-acre tract of land described in Section 3 hereof.

<u>Section 6.</u> Ordinance Number O-04-54, adopted by the City Council of the City of Missouri City on November 15, 2004, is hereby repealed.

Section 7. Penalty. Any person, firm, partnership, association, corporation, company, or organization of any kind who or which violates any of the provisions of this zoning ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00). Each day during which said violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this zoning ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense unless otherwise prohibited by law and, upon conviction thereof, shall be punished as above provided.

<u>Section 8</u>. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED o	n first reading this <u>5th</u> day of <u>January</u> , 2009.	
PASSED, APPROVED and ADOP, 2009.	ΓED on second and final reading this	_ day o
	Allen Owen, Mayor	
ATTEST:	APPROVED AS TO FORM:	
Patrice Fogarty, City Secretary	Caroline Kelley, City Attorney	

# TRACT II METES AND BOUNDS DESCRIPTION 54,307 ACRE TRACT LOCATED IN THE THE B.B. & C. R.R. Co. SURVEY, A-116 FORT BEND COUNTY, TEXAS

Being a tract or parcel of land containing \$4.307 access of land or 2,365,607 square feet, located in the B.B.B. & C.R.R. Company Survey, Abstract 116, Fort Bend County Texas, being out of and a part of three (3) parcels of land, the first being a called 40.5752 acre tract of record in the name of James L. Wagner in Fort Bend County Clerk's File [P.B.C.C.F.] Number 9471426, the second being a called 24.1823 acre tract of record in the name of Lawrence Chow. Trustee in Book 1306, Page 432 of the Deed Records of Fort Bend County, Texas, save and except a 0.021 acre tract of record in Fort Bend County Clerk's File Number 2033092986 and save and except a 0.081 acre tract or record in Fort Bend County Clerk's File Number 2033092986 and save and except a 0.081 acre tract or record in Fort Bend County Clerk's File Number 2033092986 and save and except a 0.081 acre tract or record in Fort Bend County. Texas, save and part of Fort Bend County, Texas, the third being a called 10.0000 acre tract of record in the name of Lawrence Chow, Trustee in Book 1066, Page 279 of the Deed Record of Fort Bend County, Texas, save and except a 60 feet wide access extended on the Texas of the Deed Records of Fort Bend County and Except a 0.427 acre tract of record in Volume 2428, Page 2033 of the Official Records of Fort Bend County, Texas, being out of and a part of the M.M. Craven Estate of record in Volume 191, Page 556 of the Deed Records of Fort Bend County, Texas, said 4.307 acre tract being more particularly described as follows (all bearings based on the Texas State Plane Coordinate System South Central Zone):

COMMENCING at a 5/8 inch iron rod with "RENO" cap set for the south end of aforesaid 0.021 acre uncer and the southerly end of a transition from the northeast Right-of-Way (R.O.W.) line of Craven Road (width vuoles) to the southerly R.O.W. line of US Highway 90A (width varies);

THENCE coincident the north ROW. line of aforesaid Craven Road, South 47 Degrees 30 Minutes 00 Seconds East, a distance of 708.22 feet to the POINT OF BEGINNING of the herein described tract;

THENCE, through and across aforesaid 40.5752 acre tract. North 67 Degrees 02 Minutes 49 Seconds East, a distance of 1308.99 feet to a 5/8 inch fron rod with "RENO" cap set for an angle point of the herein described tract.

THENCE, coincident the southerly line of aforesaid Trace "B" and the northerly line of both the herein described tract and aforesaid 10,0000 acre tract, South 47 Degrees 52 Minutes 14 Seconds Ease, a distance of 1896.94 feet to a point in the centrelline of a drainage essement of record in Volume 2428, Page 2028 of the Fort Bend County Deed Records;

THENCE, South 42 Degrees 47 Minutes 59 Seconds West, a distance of 16.26 feet to a point in ditch on the northwesteric line of a 300 foot wide Houston Lighting and Power Fee Strip of record in Volume 352, Page 475 of the Feet Band County Deed Records;

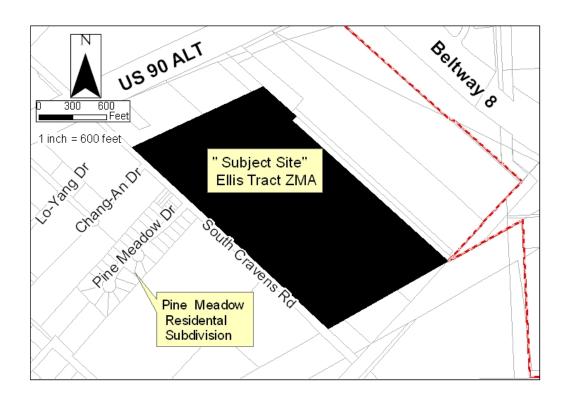
THENCE, coincident the northwesterly line of aforestid fee strip, South 60 Degrees 27 Minutes 53 Seconds West, a distance of 556.02 feet to a 1-1/2 Inch iron pipe found for the original southeast corner of aforestid 24,1823 acre fract:

THENCE, coincident the southerly line of aforesaid 24,1823 age tract. South 60 Degrees 29 Minutes 08 Seconds West a distance of 691.69 feet to a 5/8 inch iron rod with "RENO" cap set for the south corner of the herein described tract, on the northeast RO, W. line of Craven Road;

THENCE, coincident aforesaid northeast R.O.W. line, North 47 Degrees 29 Minutes 49 Secunda West, a distance of 4055.54 feet to the POINT OF BEGINNING and containing 54.307 acres of land.

Reno & Associates November 4 2004, Job No 33-0301







# Rezoning Application Protest Letters Analysis City of Missouri City, Texas Planning Department

Application: Ellis Tract – ZMA (R-2, Single Family District to LC-3, Retail

District)

City Council Second Reading: January 20, 2009

#### **Protest Letters Received from Property Owners Within 200 Feet of Subject Site:**

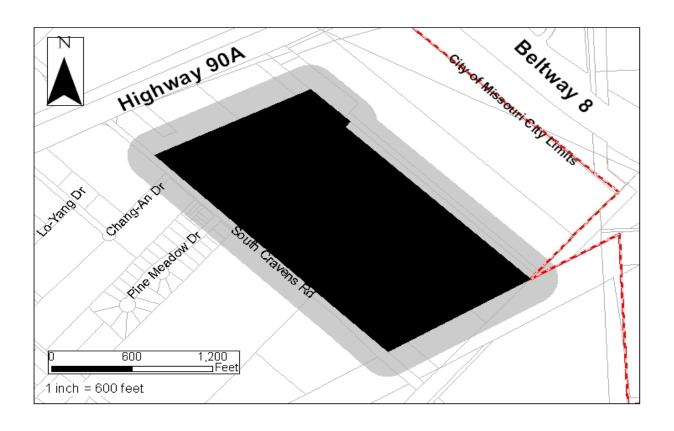
Name Address Area (s.f.) Within 200 Feet N/A N/A N/A

TOTAL AREA REPRESENTED BY PROTESTS:

0 s.f.

TOTAL LAND AREA INCLUDING SUBJECT TRACT: 4,228,718.11 s.f. SUBJECT TRACT'S LAND AREA: 2,673,216.59 s.f. TOTAL LAND AREA ONLY WITHIN 200 FEET: 1,555,501.52 s.f. PERCENTAGE OF LAND AREA WITHIN 200 FEET: 0 %

Note: A total of 0 letters of support and 0 letters of protest have been received for the application request as of January 9, 2009





## Council Agenda Item January 20, 2009

#### 10. CONSIDERATION OF ORDINANCES

(a) Consider an ordinance of the City of Missouri City, Texas, amending Chapter 2, Administration, of the Code of Ordinances of the City of Missouri City, Texas; removing the designation of **election precincts and polling places** from the Code of Ordinances and providing for such designation by separate ordinance; providing for repeal; and providing for severability; and to **consider on the second and final reading.** 

Background information attached as follows:	
Cover Memo	

Ordinance



### Council Agenda Item Cover Memo January 20, 2009

To: Mayor and City Council

Agenda Item: 10a Consider an ordinance amending Section 2-351 of Chapter 2,

Administration, of the Code of Ordinances, by removing the establishment of election precincts and polling places in Chapter 2; and providing for establishing

election precincts and polling places by separate ordinance

**Submitted by:** Patrice Fogarty, City Secretary

#### **SYNOPSIS**

Council is being asked to consider amending Section 2-351 of Chapter 2, Administration, of the Code of Ordinances. This section consists of a listing of City election precincts and polling places.

Every election cycle, Council passes an election ordinance calling the election and establishing precincts and polling places. Because polling locations change with almost every election, and sometimes the number of City precincts changes, as well, Council then passes another ordinance amending Chapter 2. We are requesting Council consider removing the listing in Section 2-351 of Chapter 2 and include language stating Council shall establish election precincts and polling places via ordinance (the election ordinance). This will provide for a smoother, less duplicitous, process in establishing election precincts and polling places.

#### FISCAL ANALYSIS

N/A

#### STAFF'S RECOMMENDATION

Approve ordinance on the second and final reading amending Section 2-351 of Chapter 2, Administration, of the Code of Ordinances.

Frank Simpson City Manager

#### ORDINANCE NO. O-09-

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES OF THE CITY OF MISSOURI CITY, TEXAS; REMOVING THE DESIGNATION OF ELECTION PRECINCTS AND POLLING PLACES FROM THE CODE OF ORDINANCES AND PROVIDING FOR SUCH DESIGNATION BY SEPARATE ORDINANCE; PROVIDING FOR REPEAL; AND PROVIDING FOR SEVERABILITY.

\* \* \* \* \* \* \*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

<u>Section 1</u>. The Code of Ordinances of the City of Missouri City, Texas, is hereby amended by deleting Section 2-351 of Article VIII of Chapter 2 thereof and substituting therefor a new Section 2-351 of Article VIII of Chapter 2 to provide as follows:

#### "CHAPTER 2

#### ADMINISTRATION

. . . .

#### ARTICLE VIII. ELECTIONS

Sec. 2-351. Precincts and polling places.

There shall be election precincts and polling places in the city for the conduct of municipal elections. Said election precincts and polling places are established by city council by separate ordinance as may be enacted from time to time, and shall be on file in the office of the city secretary."

<u>Section 2</u>. All ordinances or parts of ordinances inconsistent or in conflict herewith are, as to the inconsistency or conflict, hereby repealed.

Section 3. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED AND APPROVED on first I	reading this <u>5th</u> day of <u>January</u> , 2009.
PASSED, APPROVED and ADO day of, 2009.	PTED on second and final reading this
	Allen Owen, Mayor
ATTEST:	APPROVED AS TO FORM:
Patrice Fogarty, City Secretary	Caroline Kelley, City Attorney

#### **CHAPTER 2**

#### **ADMINISTRATION**

. . . .

#### ARTICLE VIII. ELECTIONS

Sec. 2-351. Precincts and polling places.

There shall be <u>17</u> election precincts <u>and polling places</u> in the city for the conduct of municipal elections. Said election precincts <u>shall remain as set forth hereunder until changed by city council</u>. <u>Said election precincts are hereby established as follows and the polling places for each of the city election precincts shall be as follows: <u>and polling places are established by city council by separate ordinance as may be enacted from time to time, and shall be on file in the office of the city secretary.</u></u>

- (1) City election precinct number 1: All of that territory lying within that portion of Harris County election precinct number 506 situated within the city. The polling place for city election precinct number 1 shall be the Fondren Park Community Center, 11804 McLain Boulevard, Missouri City, Texas.
- City election precinct number 2: All of that territory lying within those portions of Fort Bend County election precinct numbers 4044 and 4065 situated within the city. The polling place for city election precinct number 2 shall be the Austin Parkway Elementary School, 4400 Austin Parkway, Sugar Land, Texas.
- (3) City election precinct number 3: All of that territory lying within that portion of Fort Bend County election precinct number 4049 situated within the city. The polling place for city election precinct number 3 shall be the Brightwater Clubhouse, 2410 Brightwater Drive, Missouri City, Texas.
- (4) City election precinct number 4: All of that territory lying within that portion of Fort Bend County election precinct number 2081 situated within the city. The polling place for city election precinct number 4 shall be the East End Annex, 303 Texas Parkway, Missouri City, Texas.
- (5) City election precinct number 5: All of that territory lying within that portion of Fort Bend County election precinct number 2061 situated within the city. The polling place for city election precinct number 5 shall be the Elkins High School, 7007 Knights Court, Missouri City, Texas.
- (6) City election precinct number 6: All of that territory lying within those portions of Fort Bend County election precinct numbers 2077 and 2141

situated within the city. The polling place for city election precinct number 6 shall be the Glover Elementary School, 1510 Columbia Blue, Missouri City, Texas.

- (7) City election precinct number 7: All of that territory lying within that portion of Fort Bend County election precinct number 2050 situated within the city. The polling place for city election precinct number 7 shall be the Hunter's Glen Elementary School, 8295 Independence Boulevard, Missouri City, Texas.
- (8) City election precinct number 8: All of that territory lying within those portions of Fort Bend County election precinct numbers 2033, 2090, and 2091 situated within the city. The polling place for city election precinct number 8 shall be the Lantern Lane Elementary School, 3323 Mission Valley Drive, Missouri City, Texas.
- (9) City election precinct number 9: All of that territory lying within that portion of Fort Bend County election precinct number 4127 situated within the city. The polling place for city election precinct number 9 shall be the Lexington Creek Elementary School, 2335 Dulles Avenue, Missouri City, Texas.
- (10) City election precinct number 10: All of that territory lying within those portions of Fort Bend County election precinct numbers 2092, and 2093 situated within the city. The polling place for city election precinct number 10 shall be the Meadowcreek Clubhouse, 2410 LaQuinta Drive, Missouri City, Texas.
- (11) City election precinct number 11: All of that territory lying within those portions of Fort Bend County election precinct numbers 2059, 2071, and 2075 situated within the city. The polling place for city election precinct number 11 shall be the Community Center, City of Missouri City, 1522 Texas Parkway, Missouri City, Texas.
- (12) City election precinct number 12: All of that territory lying within those portions of Fort Bend County election precinct numbers 4062 and 4094 situated within the city. The polling place for city election precinct number 12 shall be the Palmer Elementary School, 4208 Crow Valley Drive, Missouri City, Texas.
- (13) City election precinct number 13: All of that territory lying within that portion of Fort Bend County election precinct number 2089 situated within the city. The polling place for city election precinct number 13 shall be the Quail Green Clubhouse, 2605 Spring Place Drive, Missouri City, Texas.
- (14) City election precinct number 14: All of that territory lying within those portions of Fort Bend County election precinct numbers 2115 and 2136 situated within the city. The polling place for city election precinct number 14 shall be the Quail Valley East Clubhouse, 2206 Turtle Creek Drive, Missouri City, Texas.

- (15) City election precinct number 15: All of that territory lying within that portion of Fort Bend County election precinct number 2078 situated within the city. The polling place for city election precinct number 15 shall be the Fifth Street Community Center, 3110 Fifth Street, Stafford, Texas.
- (16) City election precinct number 16: All of that territory lying within that portion of Fort Bend County election precinct number 2030 situated within the city. The polling place for city election precinct number 16 shall be the Quail Valley Middle School, 3019 FM 1092, Missouri City, Texas.
- (17) City election precinct number 17: All of that territory lying within that portion of Fort Bend County election precinct number 2028 situated within the city. The polling place for city election precinct number 17 shall be the Quail Valley Elementary School, 3500 Quail Village Drive, Missouri City, Texas.

Those portions of Fort Bend County Precinct Nos. 1058, 1114, 1118, 2088, 2112, and 4131 and Harris County Precinct No. 337 falling within the boundaries of the City of Missouri City but having no Missouri City residents will have no Missouri City election day polling places.

Document comparison done by Workshare Professional on Monday, December 29, 2008 10:30:33 AM

Input:	
Document 1	file://W:/LEGALPC/Ordinance/Changes Marked/CHAPTER 2 precinct removal 2009 original.doc
Document 2	file://W:/LEGALPC/Ordinance/Changes Marked/CHAPTER 2 precinct removal 2009 revised.doc
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:		
	Count	
Insertions		7
Deletions		26
Moved from		0
Moved to		0
Style change		0
Format changed		0
Total changes		33



# Council Agenda Item January 20, 2009

#### 11. CONSIDERATION OF RESOLUTIONS

(a) Consider a resolution of the City Council of the City of Missouri City, Texas, authorizing the Mayor to execute and the City Secretary to attest the **First Amendment to the Economic Development Agreement** by and between the City of Missouri City, Texas and **Ben E. Keith Company** pertaining to 82.204 acres of land located in the City of Missouri City, Texas.

Background information attached as follows:	

Resolution

Cover Memo



## Council Agenda Item Cover Memo January 20, 2009

To: Mayor and City Council

Agenda Item: 11a Resolution to amend the Economic Development Agreement between the City of

Missouri City and the Ben E. Keith Company

Submitted by: Bob Graf, Economic Development Coordinator

#### **SYNOPSIS**

Authorize the Mayor to execute a First Amendment to the Economic Development Grant Agreement between the City of Missouri City, Texas and the Ben E. Keith Company.

#### **BACKGROUND**

As Mayor and Council are aware, the City and Ben E. Keith executed an Economic Development Grant Agreement in November 2007. It is the intent and desire of the parties to extend certain deadlines in the Agreement and to clarify and to amend obligations related to Infrastructure improvements in the Agreement.

- Dates were amended and replaced with the dates that correspond to the recently approved date changes made in the Tax Abatement Agreement in October 2008.
- City will commit to construction of future improvements to S. Cravens north of the proposed cul-de-sac and south of the southern boundary of the Ben E. Keith property and Ben E. Keith will be contributing money toward the improvements.
- The original situs incentive payments derived from sales tax, that were heavily front loaded, have been eliminated and replaced with a new Location inventive that will allow payments to be spread over a longer period providing a more favorable payment schedule for the City.

#### **FISCAL ANALYSIS**

Ben E. Keith will contribute \$212,747.00 that will be applied to the future improvements to S. Cravens.

The original agreement had the City making a \$500,000.00 incentive payment to BEK upon receiving their Certificate of Occupancy and two subsequent payments of \$125,000.00. The total \$750,000.00 is now spread out equally over 5 years with the first payment not being due until one year after the Certificate of Occupancy is issued. The entire incentive is now employment based.

#### STAFF'S RECOMMENDATION

Authorize Mayor to execute the contract.

Frank Simpson City Manager

#### RESOLUTION NO. R-09-\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST THE FIRST AMENDMENT TO THE ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MISSOURI CITY, TEXAS AND BEN E. KEITH COMPANY PERTAINING TO 82.204 ACRES OF LAND LOCATED IN THE CITY OF MISSOURI CITY, TEXAS.

\* \* \* \* \* \* \*

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

<u>Section 1</u>. That the Mayor of the City of Missouri City, Texas, be and is authorized to execute for and on behalf of the City of Missouri City, Texas, and the City Secretary be and is hereby authorized to attest the First Amendment to the Economic Development Agreement by and between the City of Missouri City, Texas and Ben E. Keith Company pertaining to certain improvements to an 82.204-acre tract of land located in the City of Missouri City, Texas. A copy of such amendment to the economic development agreement is attached hereto and made a part hereof for all purposes.

PASSED, APPROVED and ADC	OPTED this day of, 2009.
	Allen Owen, Mayor
ATTEST:	APPROVED AS TO FORM:
Patrice Fogarty, City Secretary	Caroline Kelley, City Attorney

# FIRST AMENDMENT to the ECONOMIC DEVELOPMENT AGREEMENT by and between THE CITY OF MISSOURI CITY, TEXAS and the BEN E. KEITH COMPANY

This First Amendment (the "First Amendment") to the Economic Development Agreement (the "Agreement") by and between the City of Missouri City, Texas, (the "City") and Ben E. Keith Company, a Texas Corporation, (the "Recipient") shall be effective upon City's or Recipient's execution, whichever is later. Terms defined in the Agreement shall have the same meaning when used in this First Amendment. It is the intent and desire of the parties to extend certain deadlines in the Agreement in light of significantly changed and unforeseeable circumstances and to clarify and to amend obligations related to Infrastructure Improvements in the Agreement.

The Agreement is amended as followed:

- 1. Section 1.1.1 of Article 1 shall be deleted in its entirety. Sections 1.2.1 through 1.7.1 of Article 1 shall be renumbered as new Sections 1.1.1 through 1.6.1 of Article 1.
- 2. The new section 1.1.1 of Article 1 shall be amended as set forth below:
  - **"1.1.1** 'Employment Incentive' means the five payments of one hundred fifty thousand dollars (\$150,000) each to Recipient by the City as described in this Agreement in consideration of the Recipient employing at least 210 full time employees for certain time periods as specified in this Agreement."
- 3. The new section 1.2.1 of Article 1 shall be amended as set forth below:
  - The date "January 1, 2011," shall be replaced with the date "June 1, 2011."
- 4. The new section 1.4.1 of Article 1 shall be amended as set forth below:
  - The date "January 1, 2011," shall be replaced with the date "June 1, 2011."

5. Article 3, Section 2 shall be amended as set forth below:

The date "October 1, 2008" shall be replaced with the date "April 1, 2009" and the date "January 1, 2011," shall be replaced with the date "June 1, 2011."

- 6. Article 4 is renamed "Article 4 City's Construction of Infrastructure Improvements and City's and Recipient's Related Obligations."
- 7. A new Section 4 of Article 4 is added to provide as follows:
  - "4. S. Cravens Road Improvements. In addition to the Infrastructure Improvements defined herein, the City hereby additionally commits to make improvements to S. Cravens Road north of the proposed Cravens Road cul-de-sac and south of the southern boundary of Recipient's Property. The Recipient hereby commits to contribute two hundred twelve thousand, seven hundred forty-seven dollars (\$212,747.00) to the City toward costs associated with such improvements upon Recipient's acquisition of right of way necessary for construction of rail to service the Property. The construction of these additional S. Cravens Road improvements are not confined to the timeframes for the Infrastructure Improvements set forth herein. The City hereby commits to set aside the payment by the Recipient for these improvements and separately account for such payment until such time as the City makes such improvements."
- 8. Article 5 shall be deleted in its entirety and replaced as set forth below:

#### "ARTICLE 5 - EMPLOYMENT INCENTIVES

- 1. Incentive Payments; timing and source.
  - 1.1. The City shall pay Recipient seven hundred fifty thousand dollars (\$750,000) (the Employment Incentive) in five equal payments of one hundred fifty thousand dollars (\$150,000). The first of these payments shall be paid to Recipient within thirty (30) days of the one year anniversary date of the issuance of the CO. The four remaining payments of one hundred fifty thousand dollars (\$150,000) each shall be paid to Recipient one per year for the next four years beginning upon the second year anniversary date of the issuance of the CO. All Employment Incentive payments are contingent upon Recipient employing at least 210 employees at the Project, as further specified herein. The failure of Owner to employ a minimum of 210 full time employees for any 90 consecutive days during the year before each Employment Incentive payment is due shall automatically invalidate the Employment Incentive payment for the year that this requirement was not satisfied. The City shall not be obligated to provide any Employment

- Incentive payments beyond the agreed upon time period for the City's payment following five years after the issuance of the CO.
- 1.2. The Employment Incentive payments are payable from any lawful source available to the City. This agreement shall be subordinate to any pledge of the City's tax revenue with respect to the City's bonded indebtedness.
- 2. Abandonment of Project. If the Recipient does not obtain a CO for the Project by June 1, 2011, then the Recipient shall not be entitled to the Employment Incentive payments, unless Recipient was unable to obtain the CO due to a Force Majeure, in which case the deadline shall be reasonably extended."
- 9. Article 6 and Section 4 of Article 7 shall be amended as set forth below:

All references to the term "Situs Incentive" shall be deleted.

10. Corresponding Changes. Furthermore, any other dates referenced in the Agreement which refer to or are substantially similar to or related to the dates changed by this First Amendment are hereby changed to reflect the corresponding changes made in this First Amendment. Additionally, any dates referenced in the Agreement which are dependent on, influenced by or related to the dates changed in this First Amendment are hereby reasonably extended to reflect such changed dates.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by City and Recipient as of the dates below stated. Recipient warrants and represents that the individuals executing this First Amendment on behalf of Recipient have full authority to execute this First Amendment and bind Recipient to the same.

	CITY OF MISSOURI CITY, TEXAS
	By: Allen Owen, Mayor
ATTEST:	Date:
Patrice Fogarty, City Secretary	Ben E. Keith Company,
	a Texas Corporation.
	By Signature
	Mike Roach, Vice President Printed Name and Title
Cherry D King	Date: <u>Saw 12</u> , 2009
Printed Name and Title	CHERYL D. KING NOTARY PUBLIC STATE OF TEXAS COMMISSION EXPIRES: MAY 4, 2009



### Council Agenda Item January 20, 2009

#### 11. CONSIDERATION OF RESOLUTIONS

Resolution

(b) Consider a resolution of the City Council of the City of Missouri City, Texas, adopting the meeting **room use policy**; and repealing all ordinances, resolutions or policies in conflict herewith.

Background information attached as follows:	
Cover Memo	



#### Council Agenda Item Cover Memo January 20, 2009

To: Mayor and City Council

Agenda Item: 11b Meeting Room Use Policy

Submitted by: Kelly Snook, ASLA

#### **SYNOPSIS**

In 2002, a City Council Resolution was passed governing the fees and regulations for the public use of municipal meeting rooms. At this time, a new resolution is proposed including additional spaces and clarifying eligibility of user groups.

#### **BACKGROUND**

In 2002, the City Council adopted Resolution 02-16, adopting fees for the use of the City's meeting rooms by the public and allowing for certain non-profit agencies, as specifically named in the policy, the use of public space at no cost. With the addition of new meeting facilities at the Public Safety Headquarters and the Quail Valley Golf Club, a revision of that resolution is necessary. These spaces along with a clarification of no-fee eligible user groups have necessitated a revised policy.

#### **FISCAL ANALYSIS**

Although use of public meeting room facilities at no cost will decrease facility revenues, the identified user groups will support the City's missions and will outweigh the costs.

#### STAFF'S RECOMMENDATION

Adopt the Meeting Room Use Policy as submitted.

Bill Atkinson

**Assistant City Manager** 



#### Council Agenda Item Cover Memo January 20, 2009

To:

Mayor and City Council

Agenda Item: 116 46 Meeting Room Use Policy

Submitted by:

Kelly Snook, ASLA

**REVISED 1-20-09** 

In 2002, a City Council Resolution was passed governing the fees and regulations for the public use of municipal meeting rooms. At this time, a new resolution is proposed including additional spaces and clarifying eligibility of user groups.

SYNOPSIS

#### BACKGROUND

In 2002, the City Council adopted Resolution 02-16, adopting fees for the use of the City's meeting rooms by the public and allowing for certain non-profit agencies, as specifically named in the policy, the use of public space at no cost. With the addition of new meeting facilities at the Public Safety Headquarters and the Quail Valley Golf Club, a revision of that resolution is necessary. These spaces along with a clarification of no-fee eligible user groups have necessitated a revised policy.

The Council Subcommittee recommended that the policy allow free use of all included meeting rooms, as prescribed by type and frequency. However, they recommended the Quail Valley Golf Club facility be charged at a rate consistent with its previously adopted fee schedule. Since that subcommittee meeting, staff has received additional comments. Due to these additional comments concerning free use of the golf course facilities by Missouri City Home Owner Associations, staff recommends the policy changed so the Golf Club facility be made available at no charge to Missouri City Home Owner Associations.

#### **FISCAL ANALYSIS**

Although use of public meeting room facilities at no cost will decrease facility revenues, the identified user groups will support the City's missions and will outweigh the costs.

#### STAFF'S RECOMMENDATION

Adopt the Meeting Room Use Policy as submitted with the change regarding the rooms at the Quail Valley Golf Club facility being used by Missouri City Home Owner Associations free of charge once a month.

Bill Atkinson Assistant City Manager

#### RESOLUTION NO. R-09-\_\_\_\_

A RESOLUTION OI MISSOURI CITY, ROOM USE F ORDINANCES, F CONFLICT HEREW	TEXAS, ADOP <sup>-</sup> POLICY; AND RESOLUTIONS	TING THE MEET REPEALING	TING ALL		
* *	*	*	*		
BE IT RESOLVED BY THE CITEXAS:	TY COUNCIL FO	R THE CITY OF	MISSOURI CITY,		
Section 1. The City Cour the City of Missouri City Meeting hereto as Exhibit "A" and incorpor	g Room Use Polic	y. A copy of such			
<u>Section 2</u> . All ordinances, resolutions, policies or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.					
Section 3. This resolution shall take effect immediately upon its passage and approval by the City Council of the City of Missouri City, Texas.					
PASSED, APPROVED and	d ADOPTED this _	day of	, 2009.		
	Alle	n Owen, Mayor			
ATTEST:	APF	PROVED AS TO FO	ORM:		

Caroline Kelley, City Attorney

Patrice Fogarty, City Secretary



## MEETING ROOM USE POLICY January 20, 2009

#### I. PURPOSE

It is the purpose of this policy to establish rules for the use of meeting rooms at no cost by certain groups and organizations.

#### II. APPLICATION

This policy applies to the following groups and organizations and allows the frequency of use as follows:

- A. Home owner associations representing the residents of subdivisions within the city limits of the City of Missouri City, not more frequently than one time per month,
- B. Governmental agencies holding meetings relating to the City of Missouri City or its residents, such as Municipal Utility Districts and the Fort Bend County Library, without frequency limitation,
- C. Missouri City Chapter of AARP, not more frequently than one time per calendar quarter,
- D. Missouri City Business Alliance, not more frequently than one time per calendar quarter,
- E. Texas Parkway Alliance, not more frequently than one time per calendar quarter,
- F. Missouri City Police and Fire Auxiliaries, without frequency limitation, and
- G. Friends of Missouri City Parks, without frequency limitation.

#### III. ELIGIBLE ROOMS

This policy allows the use of the following facilities by the groups and organizations identified in Section II hereof:

- A. Community Center,
- B. Public Safety Headquarters Training Room,
- C. Rooms of the former municipal court, and
- D. Meeting rooms at the Quail Valley Golf Course.

#### IV. PROCESS

- A. The meeting rooms at the Quail Valley Golf Course shall be reserved through golf course personnel, consistent with the rules adopted for their use pursuant to resolution adopted by City Council.
- B. Rooms in the Community Center and the former municipal court shall be reserved through the Parks and Recreation Department.
- C. The Public Safety Headquarters Training Room shall be reserved through Fire Department or the Police Department.
- D. Rooms may be reserved when they are available for use on the date and time requested and not otherwise reserved.

- E. Food or drink shall be allowed in the rooms in the Community Center and the former municipal court only as authorized by permit issued for the reservation. A permit allowing food and drink requires payment of a cleaning fee as established by resolution adopted by City Council.
- F. A violation of this policy may result in loss or suspension of permit or require payment of an amount equal to the fees for the rental of the room as established by resolution adopted by City Council.



## Council Agenda Item January 20, 2009

#### 12. RECEIVING OF REPORTS

There are no Receiving of Reports on this agenda.